

Template: Local Legislation – Eviction Moratorium

TABLE OF CONTENTS:

Section 1. Title and Authority.

- (a) Title.
- (b) Authority.

Section 2. Definitions.

Section 3. Moratorium on Evictions.

- (a) Establishment.
- (b) Moratorium Period.
- (c) Requirements.
- (d) Enforcement. Provisions of this Section 3(d) survive expiration of the moratorium period.
 - i. Notification.
 - ii. Emergency Resident Claim to Restore Access to Premises.
 - iii. Private Civil Action for Damages.
 - iv. Civil Penalties for Noncompliance.

Section 4. Requirements Related to Property Management and Lease Administration.

- (a) Establishment.
- (b) Effective Period.
- (c) Prohibition on Fees.
- (d) Prohibition on Informal Evictions.
- (e) Prohibition on Rent Increases.
- (f) Rent Cancellation
- (g) Prohibition on Lease Terminations or Non-renewals.
- (h) Utility Service.
- (i) No Terminations Based on Assertions of Rights.
- (j) No Entry.
- (k) Lease Termination by Tenant or by Mutual Agreement.

Section 5. Requirements Related to Administration of Mortgages and Foreclosure.

- (a) Establishment.
- (b) Effective Period.

Section 6. Local Government Operations.

- (a) Establishment.

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

[PolicyLink, April 23, 2020]

- (b) Effective Period.
- (c) Implementation.
- (d) Utility Shutoff.
- (e) Prohibition on Certain Actions.
- (f) Counsel for Tenants.

Section 7. Request for Further Action.

- (a) State and Federal Action.
- (b) Action by Financial Institutions.

Section 8. Miscellaneous.

- (a) Severability.
- (b) Local Requirements.

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

[PolicyLink, April 23, 2020]

[Local Jurisdiction] Emergency COVID-19 Eviction Moratorium Act of 2020.

WHEREAS, COVID-19 is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in [state and local area]; and

WHEREAS, on [date] [local declaration of emergency], and

WHEREAS, on [date] [state declaration of emergency]; and

WHEREAS, [local jurisdiction] is experiencing a severe housing affordability crisis and [XX] percent of residents are renters, who would not be able to locate affordable housing within [local jurisdiction] if they lose their housing; and

WHEREAS, in [local jurisdiction], more than [XX] of our community members are homeless and live outdoors, in tents or in vehicles; and

WHEREAS, because homelessness can exacerbate vulnerability to COVID-19, it is necessary to take measures to preserve and increase housing security for [local jurisdiction] residents; and

WHEREAS, the World Health Organization announced on March 11, 2020, that it has characterized COVID-19 as a pandemic; and

WHEREAS, [cite any relevant local public hearings – *e.g.* where public gave commentary about the need to prevent residential evictions during the COVID-19 crisis]; and

WHEREAS, [cite applicable shelter-in-place orders]; and

WHEREAS, many [local jurisdiction] residents are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with rent or mortgage payments; and

WHEREAS, many [local jurisdiction] businesses are suffering economic losses related to COVID-19, in particular since the establishment of the Shelter in Place Order; and

WHEREAS, many landlords charge late fees which can operate as an unfair penalty if a tenant is unable to pay rent due to reasons related to COVID-19; and

WHEREAS, some landlords refuse to provide a W-9 form when required for a tenant to access rental assistance from a government or non-profit agency; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

displacement and homelessness; and

WHEREAS, an emergency ordinance restricting evictions during the COVID-19 crisis would help ensure that residents stay housed during the pandemic and would therefore reduce opportunities for transmission of the virus; and

WHEREAS, on March 18, 2020, the Federal Housing Administration (FHA) enacted a 60-day moratorium on foreclosures and evictions for single family homes with FHA-insured mortgages, and the Federal Housing Finance Agency suspended foreclosures and evictions for single family homes with mortgages backed by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) for 60-days; and

WHEREAS, on March 27, 2020, the United States Congress passed, and President Trump signed, the Coronavirus Aid, Relief, and Economic Security (CARES Act), a \$2.2 trillion coronavirus stimulus package, which includes a direct payment to qualified individuals, small business loans, corporate tax cuts, and financial support for hard-hit industries such as airlines; and

WHEREAS, [include local statistics re demographics of renters, including race and income] [cite intent to promote racial and economic equity]; and

WHEREAS, [include any other language regarding process/status of the legislation (e.g. emergency powers, voting without a meeting, etc.)];

NOW, THEREFORE, be it ordained by [local legislative body]

Section 1. Title and Authority.

(a) **Title.** This act may be referred to as the [Local Jurisdiction]Emergency COVID-19 Eviction Moratorium Act of 2020.

(b) **Authority.** [Local jurisdiction] enacts this Act during a time of emergency, to protect public health, safety, and well-being, using its police powers and all other applicable legal authority pursuant to local and state law. [cite specific state or local grants of authority; e.g. charter provisions re emergency powers, authority to protect health and safety, etc.]

Section 2. Definitions.

The following terms shall have the following meanings in application of this Act.

(a) “Act” means this [Local Jurisdiction] Emergency COVID-19 Eviction Moratorium Act of 2020.

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

(b) “Eviction” or “to evict” means using any judicial or nonjudicial means to involuntarily remove a resident from a dwelling unit, including but not limited to:

- i.** issuing a notice to vacate or other effort to remove a resident based on lease termination, eviction notice, or mortgage foreclosure;
- ii.** filing, serving, or otherwise initiating a judicial eviction lawsuit;
- iii.** prosecuting a pending eviction lawsuit, other than as necessary to request a continuance or other suspension of the matter or to comply with an order of the tribunal;
- iv.** seeking or causing any order for the physical eviction of a resident to be executed;
- v.** suspending or terminating any utility service to premises; or
- vi.** allowing premises to become unfit for human occupancy by failing to provide necessary maintenance or repairs.

(c) “Eviction notice” means any notice directing a resident to vacate residential premises, based on asserted lease termination or violation, or mortgage foreclosure.

(d) “Eviction case” means any judicial or administrative proceeding that seeks recovery of possession of residential premises from a resident, based on asserted lease termination or violation, or mortgage foreclosure.

(e) “Eviction order” means any order entered in an eviction case that directs or authorizes the removal of a resident from residential premises. “Eviction order” does not include an order entered in any type of case to protect a resident from domestic violence, sexual violence, stalking, or other violence, even if compliance with that order may necessitate the absence of the person subject to the order. “Eviction order” does not include an order restoring a resident to possession of premises entered under Section 3(d).

(f) “Landlord” means the owner or managing agent of residential property that is occupied by a tenant.

(g) “Moratorium period” has the meaning specified in Section 3(b).

(h) “Mortgage holder” means the owner of a mortgage secured by property in which a resident is domiciled.

(i) “Resident” means a natural person who occupies or asserts a right to possession of premises either (i) under a rental agreement with a landlord, or (ii) as owner of property that is secured by a mortgage and in which that natural person is domiciled. “Resident” also includes any member of a resident’s household, whether or not listed on a written lease or contract.

(j) “Residential premises” means property in which a resident is domiciled, in [local jurisdiction].

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

(k) “Tenant” is a resident who occupies or asserts a right to possession of premises under a rental agreement with a landlord.

Section 3. Moratorium on Evictions.

(a) **Establishment.** This Act establishes a moratorium on evictions from residential premises in [local jurisdiction], which shall remain in effect for the term specified herein. Certain provisions of this Act survive expiration of the moratorium period, as specified below.

(b) **Moratorium Period.** The moratorium established in Section 3(a) is effective from the date of enactment of this Act until the date 90 calendar days after [local jurisdiction] adopts a resolution terminating the moratorium, after a public hearing, with findings that (i) the suspension of eviction proceedings is no longer necessary to limit or control the spread of COVID-19; and (ii) no other circumstance exists that justifies keeping the moratorium in effect. Such resolution shall list the persons and agencies consulted and shall describe the facts and circumstances considered in making such findings.

(c) **Requirements.**

i. Throughout the moratorium period:

- a. No landlord or mortgage holder may evict a resident from residential premises located within the [local jurisdiction].
- b. Any eviction notice issued to a resident during the moratorium period is void and may not be enforced against the resident.
- c. No court or other tribunal may accept any eviction case for filing, or hear or decide any pending eviction case. All deadlines pertaining to the filing, service, or other prosecution of any eviction matters are tolled for the duration of the moratorium period.
- d. No eviction order may be served, executed, or established during the moratorium period.
- e. Eviction notices, eviction orders, and eviction cases that commenced prior to the effective date of the moratorium period may not be processed or advanced, either by courts or by other local governmental or law enforcement authorities.

ii. Requirements of section 3(c)(i) apply to all types of property in which a

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

resident resides, including but not limited to residential or single-room occupancy motels and hotels, public housing, and manufactured homes.

(d) Enforcement. Provisions of this Section 3(d) survive expiration of the moratorium period.

i. Notification. The [local government housing dept] shall establish and carry out a system to notify all tenants and mortgagors of residential property within [local government jurisdiction] of the requirements of this Act; and of tenants' and mortgagors' right to pursue legal action as set forth in this Section __. Notification will be provided in all languages commonly spoken in [local jurisdiction]. Information and training will be provided to housing court, law enforcement, and other impacted agencies on compliance.

ii. Emergency Resident Claim to Restore Access to Premises. Any resident displaced from residential premises in violation of Section 3 of this Act may bring an action in a court of competent jurisdiction for an order or writ ordering the resident to be restored to such premises. Such a claim shall constitute an emergency and critical function of the judicial system. The court shall schedule a hearing on the complaint for as soon as practicable after claim filing. Unless the hearing on the complaint is held the same day as it is filed, the court shall consider the sworn allegations in the complaint and may issue an ex parte order that entitles the resident to immediate and temporary possession of the premises pending the hearing. [Such a claim may be filed electronically] [Such hearing may be held by telephonic or videoconference or through other remote means] [Add other local procedures for claim processing in general, and to protect safety of residents.]

iii. Private Civil Action for Damages. A resident adversely affected by any violation of Section 3 of this Act may bring a civil action to restrain further violations and to recover his or her damages, costs, and reasonable attorney fees. In the case of a willful violation, such resident shall also be awarded damages equal to his or her actual and consequential damages or three times the monthly rent, whichever is greater. An action under this subsection may be combined with or brought in addition to an action under subsection (i) of this section. Sovereign immunity is waived with respect to any violation of Section 3 of this Act committed by a public official or agency, including any public housing agency or governmental landlord. [Such a claim may be filed electronically] [Such hearing may be held by telephonic or videoconference or through other remote means] [Add other local procedures for claim processing in general, and to protect safety of residents.]

iv. Civil Penalties for Noncompliance. A landlord or mortgage holder that attempts to displace a resident from residential premises in violation of this Act shall be subject to civil penalties assessed by [local jurisdiction]. [Local jurisdiction/department/official] shall establish a system of civil penalties for landlords and mortgage holders found to be in noncompliance with this Act.

v. Sealing or Expunging Records. Records of eviction procedures brought

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

in violation of this Act shall be sealed or expunged.

Section 4. Requirements Related to Property Management and Lease Administration.

(a) **Establishment.** This Act establishes the following requirements related to administration of leases of residential premises in [local jurisdiction].

(b) **Effective Period.** The requirements of this Section 4 are effective from the date of enactment of this Act throughout the moratorium period, with certain provisions effective for longer periods as described herein.

(c) **Prohibition on Fees.** No landlord shall impose or collect any fee upon a resident of residential premises based on the late payment of rent coming due within the moratorium period, or based on any other asserted violations of leases. This prohibition includes interest assessments, late payment fees pertaining to rent or utilities, and all other fees or penalties related to tenancy. Any such fee previously collected shall be refunded to the resident. A person injured by a violation of this subsection shall have the right to bring a civil action in a court of competent jurisdiction to recover any such fees unlawfully withheld, along with his or her costs and reasonable attorney fees. In the case of a willful violation, such person shall also be awarded a damages amount equal to the greater of triple his or her actual damages or \$1,000. The refund and civil action provisions of this Section 4(c) survive expiration of the moratorium period.

(d) **Prohibition on Informal Evictions.** No landlord shall engage in harassment of any tenant that would cause a reasonable tenant to vacate the residential premises. As used herein, harassment includes but is not limited to the following conduct:

- i. threatening to terminate a tenancy, recover possession of residential premises, or evict a tenant during the term of this Act;
- ii. engaging in abusive conduct toward a tenant through the use of words that are offensive and inherently likely to provoke an immediate violent reaction;
- iii. enticing a tenant to vacate residential premises through an intentional misrepresentation or concealment of a material fact;
- iv. stating to a resident that the resident is required to vacate residential premises.
- v. reducing of services historically provided to residential premises or a tenant, including maintenance; or failing to perform timely and complete repairs or maintenance necessary to maintain habitability of residential premises; or
- vi. engaging in any act or omission constituting a disturbance of resident's possession of residential premises, whereby the premises are rendered

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

unfit for occupancy, or the resident is deprived of the beneficial enjoyment of the premises.

(e) Prohibition on Rent Increases. [CAUTION: definite need for research re applicable state and local legal authority, preemption, etc.] During the moratorium period, any notice of rent increase shall be void and unenforceable if notice is served or has an effective date during the moratorium period. For a one year period following the end of the moratorium period, no landlord shall increase rent, unless required for the landlord to obtain a fair return.

(f) [Rent Cancellation/Forgiveness. The language above prohibits evictions based on failure to pay rent during the moratorium period. Note that prohibition on evictions differs from true cancellation of forgiveness of rents, because tenant liability would still exist. A rent cancellation clause can be inserted here with a range of possible policy approaches, affected by local context, law, and politics. Efforts in this area can consider applicable state and local legal authority, preemption, etc.]

(g) Prohibition on Lease Terminations or Non-renewals. No landlord shall terminate or decline to renew a residential tenancy because of a rent delinquency that arose during the moratorium period. Any notice served on a tenant demanding rent that became due during the [Local Emergency] shall include the following statement in bold underlined 12- point type: “You may not be evicted for nonpayment, underpayment, or late payment of rent that became due during the [Local Emergency].” This subsection survives expiration of the moratorium period.

(h) Utility Service. Within seven days after the effective date of this Section, each landlord shall restore to all residential premises any utility services that had been suspended due to a tenant’s nonpayment, underpayment, or late payment for such services, or of related fees or costs. Each landlord shall retain such service with regard to all residential premises for the moratorium period.

(i) No Terminations Based on Assertions of Rights. No landlord shall terminate, or attempt to terminate, a residential tenancy that existed during the moratorium period wholly or in part because of the resident’s assertion or exercise of a right or protection arising under this Act. It shall be a defense to a lease termination or eviction proceeding that the landlord’s action was motivated wholly or in part by the resident’s assertion of such right or protection. A person injured by a violation of this subsection shall have the right to bring a civil action in a court of competent jurisdiction to recover any such fees unlawfully withheld, along with his or her costs and reasonable attorney fees. In the case of a willful violation, such person shall also be awarded a statutory damage equal to the greater of triple his or her actual damages or \$1,000. This Section 4(h) survives expiration of the moratorium period.

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

(j) No Entry. Except as provided in this subsection (j), it shall not be a violation of a residential rental agreement for a resident who occupies residential premises to deny entry by the landlord during the moratorium period. For purposes of this subsection (j), “landlord” includes any person accompanying the landlord or authorized by the landlord to enter premises (such as a prospective buyer or future tenant). Notwithstanding the above, if a condition exists in residential premises that substantially endangers or impairs the health or safety of a resident or other persons in the vicinity of the premises, or that is causing or threatening to cause substantial damage to the premises, then the resident shall not unreasonably deny the landlord permission to enter the premises solely for purposes of remedying the condition. In such case, the landlord shall not permit entry by any person who is, or who any person has good cause to believe is, a carrier of COVID-19, and shall not fail to make adequate assurances that appropriate social distancing and cleaning measures will be taken to avoid risk of virus transmission during the entry, and to comply with such measures. Such adequate assurances must account for (i) the resident’s report that the resident or a member of the resident’s household has or believes in good faith to have been recently exposed to COVID-19 and denies access for reasons of self-isolation or quarantine; and (ii) the resident’s report that the resident or a member of the resident’s household is at a higher risk for more serious complications from COVID-19. A landlord who enters premises under this provision shall not fail to promptly leave the premises if the resident revokes permission to enter, including because of the landlord’s failure to observe social distancing or cleaning measures.

(k) Lease Termination by Tenant or by Mutual Agreement. Nothing in this Act prohibits a resident from terminating a rental agreement in the manner otherwise prescribed by contract or relevant law. Nothing in this Act prohibits a landlord and resident from terminating a tenancy by mutual agreement.

Section 5. Requirements Related to Administration of Mortgages and Foreclosure.

(a) Establishment. This Act establishes the following requirements related to administration of mortgages and foreclosure actions in [local jurisdiction]. [CAUTION: definite need for research on applicable state and local legal authority, preemption, etc.]

(b) Effective Period. The requirements of this Section 5 are effective from the date of enactment of this Act throughout the moratorium period, with certain provisions effective for longer periods as described herein.

(c) [prohibition on foreclosures based on late payment [or failure to pay?] during moratorium period]

(d) [prohibition on late fees re mortgage payments]

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

Section 6. Local Government Operations.

[NOTE: This could be a separate ordinance, rather than included in eviction moratorium ordinance]

(a) **Establishment.** This Act establishes the following requirements related to certain [local jurisdiction] operations, for the purpose of protecting health, safety, and welfare of residents during and after the moratorium period.

(b) **Effective Period.** The requirements of this Section 6 are effective from the date of enactment of this Act throughout the moratorium period, with certain provisions effective for longer periods as described herein.

(c) **Implementation.** [Local jurisdiction] shall take no actions to initiate, advance, apply, or enforce evictions prohibited under Section 3 of this Act. [Local jurisdiction] shall take all appropriate action to advance the intent of this Act, protecting health and safety of residents by allowing residents to remain in their homes during the moratorium term and beyond. [Local officials] shall brief [local law enforcement] on public responsibilities related to this Act.

(d) **Utility Shutoff.** The [local government-operated utility] shall suspend for the duration of the moratorium period the discontinuation or shut off of utility services for residents and businesses in the City for non-payment, and the imposition of late payment penalties or fees for delinquent payment; and no lien proceedings for utility payments shall be initiated or advanced. [if local government doesn't control utility providers, make advisory]

(e) **Prohibition on Certain Actions.** [include language on sweeps of houseless persons, and enforcement of trespass laws with respect to occupants of vacant buildings.]

(f) **Counsel for Tenants.** [include language establishing right to counsel and funding for counsel for tenants in defending against violations of this Act]

Section 7. Request for Further Action.

(a) **State and Federal Action.** The [local legislative body] hereby requests and urges the governor, state legislators, and United States senators and representatives to enact comprehensive legislation to further protect residents, tenants, homeowners and small businesses from the adverse health, safety and economic impacts of this crisis. This includes, but is not limited to, the following:

- i. a moratorium on mortgage foreclosures;
- ii. a moratorium on commercial rent increases;

Template Local Legislation – Eviction Moratorium

[Caution! Local and state laws in different jurisdictions may affect drafting approach and policy options! All applications need local research and legal review.]

- iii. creation of emergency direct assistance programs for rent and mortgage payments, and other housing-related expenses such as utilities, property taxes, and insurance;
- iv. urging banks and financial institutions to suspend rents and mortgages;
- v. creation of emergency grant programs to small businesses and nonprofits; and
- vi. creation of emergency programs that provide homes and expanded services for people experiencing homelessness.

(b) Action by Financial Institutions. The [local legislative body] hereby requests and urges banks and financial institutions to suspend mortgage payments, foreclosures, and late fees for low-income homeowners and landlords, with immediate forgiveness, and encourages financial institutions to provide zero-interest emergency unsecured loans and grants to small businesses and non-profits within [local jurisdiction] that are unable to meet rent, mortgage, or other fixed operating costs.

Section 8. Miscellaneous.

(a) Severability. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Act. The [enacting legislative body] hereby declares that it would have adopted this Act and each section, subsection, clause or phrase herein irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

(b) Local Requirements. [placeholder for additional local legislative language, procedures, requirements]