

# **The CDC Eviction Order**

*The following information is furnished as a helpful guide. It's not legal advice and our court staff is not allowed to give legal advice. If you need more information or legal advice, consult with an attorney or go to your nearest legal self-help center.*

- **October 15 to December 31, 2020 – CDC order bans rent and other types of evictions if tenant qualifies and gives signed declaration to landlord (except nuisance and lease violation)**
- **January 1, 2021, forward – CARES Act covered properties must give 30-day notice – Properties in forbearance can't evict**

## **Why Was It Issued?**

- **CDC order says it's to be interpreted and implemented to:**
  - **Mitigate the spread of COVID-19 within congregate or shared living settings or because of homelessness**
  - **Mitigate the spread of COVID-19 from one state to another**
  - **Support response efforts of state, federal, and local governments**

**What Does It Do? • A Landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this order applies for the effective period of the Order.**

## **What Landlords Are Covered?**

- **“Landlord” • “Owner of a residential property” – Any property leased for residential purposes, including mobile homes and park spaces**
  - **Doesn't include hotel, motel, guest house rented to temporary guest, or seasonal tenant**

- **“Other person” with legal right to evict – Includes corporations, companies, firms, partnerships, etc**

### **What Tenants Are Covered?**

- **“Covered person” is a tenant who provides landlord or owner with a declaration under penalty of perjury saying:**

**(1) You have used your best efforts to obtain governmental assistance for rent or housing**

**(2) You are unable to pay the full rent due to substantial loss of household income, loss of work, reduction in hours or wages, extraordinary medical expenses**

**(3) You are using your best efforts to pay partial rent as circumstances permit based on nondiscretionary expenses**

**(4) Eviction would make you homeless or make you move into close quarters in shared living setting**

**(5) And you expect to earn under \$99K in 2020 (\$198K jointly), or you were not required to report income in 2019, or you received a stimulus check under the CARES Act**

### **Tenants NOT covered:**

**-Anyone who doesn't give a declaration to landlord.**

**Tenants who cannot sign a declaration because:**

**– Haven't used best effort to apply for assistance**

**– Make too much money**

**– Are able to pay full rent (or unable for some weird reason)**

**– Haven't used best efforts to make partial payments under circumstances**

**– Eviction would not render homeless or force group living**

**– Occupants of hotels and motels (NOT weeklies)**

**– Homeowners and foreclosures**

## **What Does It Actually Prevent?**

- **“Any action by a landlord, owner . . . , or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property”**
  - **Serving an eviction notice? Maybe**
  - **Filing an eviction complaint? Probably**
  - **Lock out? Almost certainly**

## **What Types of Evictions Does It Cover?**

- **DOESN'T preclude evictions for:**
  - **Nuisance (engaging in criminal activity, threatening health or safety of residents, damaging property or posing risk of damage, violating building code or health ordinance)**
  - **Lease violation (violating contractual obligations other than relating to rent or payment)**
- **Presumably DOES preclude all other evictions (rent, lease expiration, no-cause, tenancy-at-will, lease violations relating to money)**

## **What Happens to Unpaid Rent and Fees?**

- **CDC order doesn't waive rent or fees, just prevents eviction based on them – Tenant is still obligated to pay; rent will continue to accrue, and tenant will owe it all**
  - **Tenant can be charged late fees, penalties, and interest if allowed in lease**
- **Late fees capped at 5% or base rent by law**
- **Nevada moratorium – Rent still owed; no late fees 3/29/20 to 9/1/20**

## **What Are the Penalties for Violations?**

- **For individual landlords**
  - **Fine up to \$100K and/or one year in jail (if death, \$250K and/or one year)**
- **For businesses – Fine up to \$200K (if death, fine up to \$500K)**
- **For tenants (willful false statement, unqualified statement without knowledge)**
  - **Fine up to \$5,000 and jail up to four years**

## **When Does It Expire?**

- **The “effective period” of the order is September 4, 2020, to December 31, 2020 – Order is being challenged in federal courts across the country**
  - **Nevada courts could find CDC order doesn’t apply until October 15 when Governor’s moratorium ends, but not likely (CDC order doesn’t apply in states with moratoriums offering equal or more protection)**
- **Nevada moratorium (rent only) = 10/15/20**

## **What Should Tenants Do?**

- 1. Determine whether they truthfully qualify**
- 2. If they do, sign a declaration (each lessee)**  
**Forms are available online at the CDC**
- 3. Give a copy to landlord but keep a copy**
- 4. Keep proof of how it was delivered; have landlord sign and date your copy, and complete declaration of service**
- 5. File signed declaration and proof of service with court if eviction started**

## **When Should Tenants Give the Declaration?**

**Now—no reason to wait (each tenant on lease)**

**No deadline—any time before “removal”**

**– Attach it to your answer if eviction started.**

**Take it to eviction hearing.**

**Attach it to your motion to stay/set aside.**

**Give a copy to the constable/sheriff.**

***But remember, the declaration is effective only if “provided to” the landlord.***