

Protections for Tenants During COVID-19

(Last Updated 6/29/2020)

It is illegal for your landlord to cut off utilities or lock you out without a court order:

- Your landlord cannot evict you without a court order, no matter what your lease says.
- You do not have to move out just because the landlord tells you to leave, gives you a “5-Day Pay or Quit” or other written notice, or files an eviction lawsuit (“unlawful detainer”) against you.
- Your landlord CANNOT cut off your utilities, including water and electricity. Electric, water, and gas utility companies are not cutting off services for non-payment until the COVID-19 crisis ends.
- If your landlord locks you out or cuts off your utilities without a court order, you can sue your landlord to get back into your home. For more information about what to do if your landlord illegally evicts you, see our information sheet titled “Unlawful Eviction Toolkit”.

If you lost income due to COVID-19, ask the court to delay your eviction case:

- If your landlord is suing you for an eviction and you have lost income due to COVID-19, you can ask the court to delay your case for 60 days.
- On your court date, bring written proof that you lost income and ask the judge for a 60-day continuance. This does not make your case go away, it simply delays it to give you time to get together any rent money you owe. You still owe ongoing rent.
- For information on how to ask for a 60-day continuance, see our information sheet titled “Get a 60-Day Continuance for Eviction Cases”

No evictions for some tenants:

Depending on the type of housing and reason for the eviction, you may be protected by the CARES Act eviction moratorium.

1. What type of housing is covered by the CARES Act eviction moratorium?

Subsidized Housing:

- “Section 8” and “Rural Development” Housing Vouchers
- Section 9 Project-based housing (Public Housing)
- HUD-subsidized senior housing and other HUD subsidized housing
- USDA-subsidized housing
- Tax Credit or “LIHTC” Housing

Private, non-subsidized housing where the landlord has a federally backed mortgage:

- HUD (including FHA) mortgage
- USDA mortgage
- VA (Veteran Affairs) mortgage
- Fannie Mae or Freddie Mac Mortgage

Two online tools to see if property is covered under the CARES Act:

<https://nlihc.org/federal-moratoriums> and <https://projects.propublica.org/covid-evictions/>

Talk to a lawyer if you have questions or need help finding out if your housing is covered by the CARES Act.

2. What is the reason for the eviction?

Unpaid rent or fees: If you live in housing covered by the CARES Act, your landlord cannot charge you late fees or begin an eviction case against you for unpaid rent until July 25, 2020. Starting July 25th, your landlord can give you a written notice at least 30 days before filing an eviction case in court.

Any other reason: Your landlord can still file an eviction lawsuit against you for other reasons.

Virginia Rent and Mortgage Relief Program (RMRP)

Starting Monday, June 29, tenants can seek rent relief funds. The rent relief program will provide short-term financial assistance in the form of rent and mortgage payments.

Program Guidelines:

- Tenant must have income loss related to COVID-19
- Tenants must have a written lease with their landlord
- Monthly rent amount must be at or below 150% fair market rent
- Payments can be applied to any rent that accrued since April 1, 2020

- Covers current rent payments up to three months if tenant remains eligible
- The program will also give precedence to households without other federal and state eviction or foreclosure protections.
- From June 29 to July 20, priority will be given to households with incomes equal to or below 50 percent of Area Median Income.
- After July 20, households with current gross incomes at or below 80 percent of AMI will also be included.
- Households with an unlawful detainer action dated prior to June 8 will be given top consideration.
- Two options for payment of back rent:
 - One lump sum payment for one month current rent plus up to three months past due rent, with landlord forgiving equal number of months' rent (i.e. landlord receives four months' rent must forgive four months' rent)
 - Payment of one month's current rent plus one month of arrears; landlord must allow tenant to pay off balance of arrears through payment plan that lasts at least six months

To identify the local organization administering the program and to conduct a self-assessment for eligibility, visit dhcd.virginia.gov/eligibility or call 211 VIRGINIA by dialing 2-1-1 from your phone.

Limit on Late Fees for Late Rent Payments:

- As of April 22, 2020, Virginia law limits the amount of late fees your landlord can charge you for paying your rent late.
- Late fees are limited to 10% of the monthly rent amount OR the amount of past due rent you owe, whichever amount is less.
- The landlord can only collect late fees if your lease says that you must pay a late fee when your rent is late.
- If your property is covered by the CARES Act, your landlord cannot charge you late fees right now.

Special Rules for Hotel, Motel, and Boarding house Residents

Ordinarily, your landlord must take you to court and get a court order before a sheriff can evict you. BUT, there are some exceptions for hotels, motels, and boarding houses, depending on how long you have lived there.

- If you have lived in the hotel, motel, or boarding house for **more than 90 days** and it is your primary residence, you have legal protections against eviction.
 - It is illegal to evict you without getting a court order and having the sheriff conduct the eviction.

- If the eviction is for nonpayment of rent, the landlord must give you a written 5-day notice before taking you to court. The notice must tell you how much you owe and give you 5 days to pay or the landlord will terminate the lease.
- After 5 days are up, the landlord must file an “unlawful detainer” case in court to ask for a court order to evict you.
- If your landlord tries to evict you without going through the court process, you can file a lawsuit to stop it. For more information, see our information sheet titled “Unlawful Eviction Toolkit”.
- If you have lived in a hotel, motel, or boarding house for **less than 90 days** and do not have a lease of at least 90 days, you do not have the same legal protections against eviction.
 - The hotel/motel can evict you without taking you to court.
 - If the room or suite has been your primary residence, the landlord must give you a written 5-day notice of nonpayment before evicting you.
 - If it is not your primary residence, the landlord can evict you without the 5-day notice.

For free information and legal advice from an attorney about your case, call Legal Services of Northern Virginia at 703-778-6800 or online at www.lsnv.org.