

The three COVID-19-related mandates affecting rentals and evictions in NM are:

### **CDC MORATORIUM**

Effective September 4, 2020, the CDC issued a moratorium on all evictions for nonpayment of rent as a public health measure to lessen the spread of COVID-19 only for tenants who provide the right documents to their landlord. Inside this brochure you will find information on what is needed to trigger this protection.

### **NEW MEXICO SUPREME COURT STAY**

In March, the NM Supreme Court issued a stay (stoppage) on executions of writs of restitution for nonpayment of rent if tenants can convince a judge that they cannot pay rent. This means that a landlord can still file for an eviction, get a money judgment/eviction order but the sheriffs cannot make you leave until the stay is lifted.

### **CARES ACT**

In March, Congress imposed a moratorium, or pause, on evictions from HUD- & USDA-subsidized and LIHTC properties for nonpayment of rent or the charging of late fees. The Act expired in July. However, two provisions remain in effect: 1) There should be no late fees charged from March 27, 2020 to July 25, 2020 and 2) Landlords must serve a 30 days' written notice before filing for an eviction.

#### **Tips for Court:**

- ◆ File a written Answer and show in court to defend yourself.
- ◆ Most courts are currently holding hearings by telephone or video. Instructions for calling in will be on the summons. If they are not, call the Court for the call-in information.
- ◆ Email or fax any documents or photos to the court before your hearing.
- ◆ Witnesses also need to call in to the hearing. Written statements will not be accepted.
- ◆ Be polite and courteous in the courtroom, even to your landlord.
- ◆ Dress nicely. It can go a long way!

If you are being evicted or need legal help with your housing situation, you can call the statewide toll-free

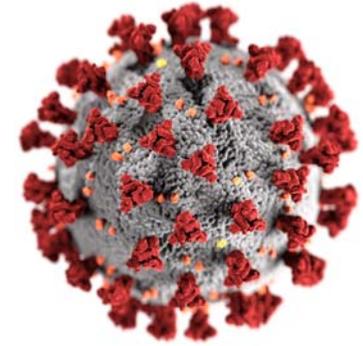
New Mexico Legal Aid  
intake line:

**1-833-LGL-HELP**

**(1-833-545-4357)**

or apply online:

**[www.newmexicolegalaid.org](http://www.newmexicolegalaid.org)**



# Guide for Renters:

## Eviction and COVID-19



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## DOES THE CDC MORATORIUM APPLY?

Tenants are protected under the CDC Moratorium if they can swear and sign an affidavit under penalty of perjury that they: **1)** Have used best efforts to obtain government housing assistance; **2)** Expect to earn less than \$99,000 (or \$198,000 if filing taxes jointly); **3)** Are unable to pay rent due to loss of income, loss of hours/wages, lay-offs, or extraordinary out-of-pocket medical expenses; **4)** Will use their best efforts to make partial payments; **5)** Are likely to become homeless, go to a shelter, or move into someone else's home if evicted; and **6)** Understand that they will still owe unpaid rent and charges and that the moratorium is only effective until December 31, 2020.

If you, as a tenant, can sign an affidavit swearing under penalty of perjury that those six statements are true, then you will want to deliver that affidavit to your landlord as soon as possible. Once your landlord receives this affidavit, they are not allowed to take "any action to remove or cause the removal" of a tenant, which includes asking a court for an eviction, asking the sheriffs to evict, or locking a tenant out. If your landlord has already filed for an eviction, then you can file a Motion to Dismiss into the case, attaching the affidavit you sent your landlord, which explains that you are protected under the CDC Moratorium.

To find samples of the Affidavit and Motion to Dismiss, go to [www.newmexicolegalaid.org](http://www.newmexicolegalaid.org).

## CAN I BE EVICTED DURING THE PANDEMIC IN NM?

### What is the reason for the eviction?

A reason that is not in any way tied to paying rent or fees?

Yes, you can be evicted. If the eviction is based on breaking a rule of your lease, then you can be evicted.

No, you cannot be evicted per the CDC Moratorium. In fact, your landlord is not permitted to take any action to cause your removal from the home, which includes asking the court or sheriffs to evict you or locking you out.

Not paying rent or fees?

Do you meet the requirements of the CDC Moratorium and have you sent your landlord a sworn affidavit informing them that you meet those requirements?

Yes, a court can issue a writ of restitution, or eviction, against you. However, under the NM Supreme Court stay, it cannot be executed, which means the sheriffs are not allowed to kick you out.

For these two protections you must be able to convince the judge of your inability to pay. It is not automatic.

**Most of this information only applies until December 31, 2020.**

**Keep in mind that you have certain rights always afforded to you under the law regardless of the pandemic:**

- ◆ You have the right to appeal a decision you do not agree with to the District Court. Appealing usually stops the eviction from moving forward.
- ◆ You cannot be removed from your home without a court order.
- ◆ You have the right to request repairs.
- ◆ You have the right to negotiate with your landlord.

**There are many organizations right now providing emergency rental assistance in light of the pandemic. Make sure to look into what local organizations are available in your area. The best place to start is at your local city government's website.**

### ALWAYS DOCUMENT EVERYTHING

**You might need it for Court!**

- ◆ **Put everything in writing to your landlord and KEEP COPIES.**
- ◆ **Always get and keep receipts!**
- ◆ **If you send a CDC affidavit to your landlord, KEEP A COPY FOR YOURSELF and make notes on exactly when and how you sent the affidavit.**