

COVID-19 FAQs for Public Housing Agencies on the Eviction Moratorium Published 4/21/2020

The following FAQs provide guidance on Section 4024 of the CARES Act. Section 4024 of the CARES act imposes a temporary moratorium (ban) on evictions, as well as a moratorium on fee and penalties related to nonpayment of rent. The eviction moratorium is in effect for a 120-day period beginning March 27, 2020, the date the CARES Act was enacted. The temporary eviction moratorium applies to the Public Housing Program administered by the Office of Public and Indian Housing.

Q. Does the ban on evictions apply to all tenants or only those tenants whose employment has been affected by the COVID-19 Virus? We have tenants on a fixed income choosing not to pay rent based on the recent announcement.

A. The temporary moratorium on: (1) evictions for nonpayment of rent and (2) fees and penalties related to nonpayment of rent, applies to all tenants, regardless if employment was affected by COVID-19. HUD encourages PHAs to alert residents that any rent missed during the moratorium will accumulate and still be due at the end of the 120 days. For any unpaid rent during the moratorium, the family must repay the PHA in full or sign a repayment agreement to pay any amount owed after the moratorium has ended. If the amount owed is not repaid, the PHA may terminate the family's assistance and proceed with a legal action to evict. (*note: tenants who lose income because of the pandemic should come to the PHA for an interim rent adjustment; all others who do not lose income due to the pandemic need to be aware that their rent is not going to be "forgiven" if they fail to pay their rent during the moratorium*)

Q. With the eviction moratorium, will residents still receive late notices? Or wait until the 120-day moratorium is over?

A. GHA send a reminder notice of the late rent. However, the reminder notice will not include fees/charges for the nonpayment of rent, and the reminder notice will not be a notice to vacate. After the moratorium expires, the PHA will proceed with their standard process. Residents will not be required to vacate for at least 30 days after the end of the moratorium, and the PHA cannot issue a notice to vacate until July 24, 2020 (expiration of the moratorium). Residents retain their rights for due process and grievance proceedings under 24 CFR 966 Subpart B and 24 CFR 982.555.

Q. Can a Public Housing Authority (PHA)/owner evict for drug abuse and other criminal activity? How about for other lease or program violations, like failure to report income or severe damage to the unit?

A. Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies to evictions related to nonpayment of rent or nonpayment of other charges to the tenant related to nonpayment of rent. The moratorium also prohibits the charging of other fees, penalties, or other charges due to the nonpayment of rent. Therefore, the PHA/owner can still undertake an eviction/termination of assistance action against a tenant for drug abuse and/or other criminal activity, as those are unrelated to nonpayment of rent. The same is true for other lease violations.

Q. “Abandonment” of a unit is generally distinguished from “absence” from the unit by tenant’s failure to pay rent and failure to acknowledge or respond to notices from the PHA/owner regarding overdue rent. If the family abandons their unit and does not pay rent, does the PHA/owner have to wait to evict?

A. The term “abandonment” requires a fact-specific determination to be made as to the reasons behind the family not being in the unit. A family could have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. The PHA must take additional steps to ensure that the unit is in fact “abandoned” by the family before an eviction/termination of assistance action is taken against the household.

Q. One of my assisted tenants was behind on rent payments prior to the CARES Act. Can I still proceed with termination and eviction?

A. If the eviction proceeding was initiated before March 27, 2020, the proceeding would not be covered under the CARES Act and the eviction action can continue. If an eviction proceeding was not initiated before March 27, 2020 for a household who was behind on rent, then the household is covered under the CARES Act and the PHA/owner cannot initiate a new eviction proceeding until after the moratorium.

Q. My tenant was late on rent prior to March 27, 2020 and was charged a late fee in January and February. Can I collect fees for nonpayment of rent that were charged prior to the moratorium?

A. Yes, fees that were charged for nonpayment of rent prior to March 27, 2020 may be collected during the moratorium. However, a PHA cannot charge new fees for nonpayment of rent from March 27, 2020 – July 24, 2020; a PHA cannot assess interest on late fees charged in January and February.

Q. I initiated an eviction prior to the moratorium. Can I continue?

A. Yes, if you filed with the court of jurisdiction, you can continue the action if the court is operating, subject to any local eviction moratorium requirements.

Q. Our courthouse is closed and there are no hearing evictions at this time. If a tenant participates in a criminal activity and the owners desire to evict, should we continue assistance?

A. PHAs can proceed with standard notifications, hearings, and program terminations for matters unrelated to nonpayment of rent. If the resident does not vacate voluntarily, the final eviction would be delayed until the court of jurisdiction reopens.