

October 26, 2020

The Honorable Dr. Robert Redfield
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

The Honorable Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G St NW
Washington, DC 20552

The Honorable William Barr
Secretary
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

To Director Redfield, Secretary Barr, and Director Kraninger:

The [federal eviction order](#) issued by the Centers for Disease Control and Prevention (CDC) extends vital protections to tens of millions of renters at risk of eviction during the coronavirus pandemic. While the moratorium is providing stability to millions of people who would otherwise lose their homes, we are deeply concerned about the moratorium's fast approaching expiration date and the order's significant shortcomings, which prevent renters from making full use of its protections. To prevent a tsunami of evictions this winter, the CDC should immediately extend and modify its order and the U.S. Department of Justice (DOJ) and Consumer Financial Protection Bureau (CFPB) should immediately create, publicize, and implement an enforcement strategy to prosecute landlords who violate the order.

The CDC should immediately extend its eviction order through March 31, 2021 to ensure that there is not a gap in protections between when the moratorium ends and when households are able to receive emergency rental assistance. Economists estimate that renters will owe between \$34 billion and \$75 billion in back rent when the moratorium expires on December 31, 2020. While the White House and congressional Republicans and Democrats have expressed an interest in providing substantial amounts for emergency rental assistance in any comprehensive relief package, it is unclear whether legislation with these resources will be enacted and distributed in time to prevent a catastrophic wave of evictions in January. Extending the moratorium through March will provide policymakers more time to enact a comprehensive relief package that includes robust housing and homelessness resources and for state and local governments to provide these resources to households in need.

Extending the moratorium is critical to preventing unnecessary evictions. There was a surge of evictions filings when the much more limited CARES Act eviction moratorium expired in August and before the CDC moratorium was implemented in September. When the CDC moratorium expires, we expect to see a far greater number of landlords and courts removing families from their homes, due to both the amount of accumulated back rent and recent harmful changes to the CDC's Frequently Asked Questions (FAQ) document.

The CDC should rescind the changes made to the FAQ. The FAQ creates loopholes in the moratorium's protections by stating that landlords can initiate eviction proceedings at any time. Because evictions are not allowed until the moratorium expires, the only purpose for landlords to file eviction proceedings prematurely is to pressure, scare, or intimidate renters into leaving sooner. Moreover, the FAQ states that landlords can challenge renters' declarative

statements, allowing for landlord intimidation and further shifting the burden to struggling renters who must gather paperwork to prove they need assistance to stay housed during pandemic.

The CDC should also provide greater clarity to courts as they interpret the order. To date, courts have interpreted the order very differently, resulting in uneven application and protections for renters. For example, such guidance should make clear that a CDC moratorium (1) bars all stages of the eviction process including notice, filings, hearings and physical eviction; (2) covers “no fault” evictions and evictions at the end of lease term; (3) puts the burden of ensuring renters know of this protection on landlords and courts; and (4) makes clear landlords cannot, in housing court, question the veracity of a declarative statement signed under penalty of perjury.

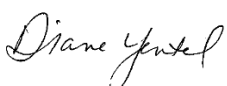
The CDC should modify its order to require landlords to provide notice to renters of their rights under a CDC moratorium and steps they must take to be protected. A significant shortcoming of the CDC moratorium is that renters must know about the moratorium and take affirmative steps to be protected. Far too many eligible renters, especially those with the lowest incomes who may not have access to legal aid attorneys, internet, or printers, and other marginalized people such as immigrants, seniors and people with disabilities, have been wrongfully evicted from their home. Landlords should be required to attest to the court, under penalty of perjury, that they have provided 30-days notice to the tenant about the moratorium and provided the tenant with a sample declarative statement before the landlord can file or advance any eviction proceeding.

Moreover, the CDC should modify its order to require landlords to attest to the court that they have not received a declarative statement from the renter. There are numerous cases where landlords have evicted renters from their homes, even though they provided their landlords with a signed declarative statement. The CDC order should bar landlords from filing or advancing eviction proceedings unless they attest to the court, under penalty of perjury, that the landlord has not been provided a signed declarative statement invoking the moratorium protections.

It is vital that the DOJ and CFPB immediately start enforcing the moratorium. While the CDC order imposes criminal penalties on landlords who violate the CDC moratorium, there has been no enforcement to date. There is no mechanism for renters to file complaints against landlords who violate the order. As a result, the criminal penalties in the order have been ineffective and landlords continue to evict renters in violation of the moratorium without consequence. The DOJ and CFPB should create a hotline number that renters can use to file complaints and create a clear and well publicized process for enforcement that is documented on all relevant materials and websites. Without robust enforcement, renters will continue to be unlawfully evicted from their homes.

If no further action is taken, [30 million to 40 million renters](#) in 17 million households are at high risk of losing their homes this winter. This has enormous, negative consequences for individuals and families, communities, and our nation’s public health and economy and must be prevented. The CDC, DOJ, and CFPB must take immediate action to extend, modify and enforce the moratorium; it is not only a moral imperative, but a public health necessity.

Sincerely,



Diane Yentel
President and CEO
National Low Income Housing Coalition



Shamus Roller
Executive Director
National Housing Law Project