



## IN THE KNOW

# EVICITION CONSIDERATIONS AFTER THE CDC MORATORIUM

Many communities are struggling with significantly lower receivables. Residents are struggling with COVID-related work loss and illness. When the CDC moratorium on evictions ends, what then?

Let's look at potential impacts to post-moratorium business and the questions you'll want to consider regarding evictions for unpaid rent. Keep in mind that these suggestions are meant to apply in situations involving COVID-related nonpayment of rent. Eviction for other causes such as lease violations, potential threats and risk may follow different guidelines.

### Check with Legal Counsel

Before taking any action, check with your local legal counsel. Even after the federal CDC moratorium is lifted, there may be local or state regulations in place that will continue to dictate COVID-related eviction policies in those areas.

Keep in mind that the end of the federal moratorium may mean a heavy workload for attorneys and courts. It's better to be at the front of that line with your ducks in a row, so don't wait to consult with your legal expert. Also, be prepared for a situation that changes rapidly. Court cases, administrative changes or governmental action may shift the rules in favor of owners or residents as we move through these murky waters.



### Account for Temporary Deferments or Rental Assistance

If residents are using rental assistance programs or temporary deferments outside of the CDC moratorium, you'll want to explore the terms of these programs and consider how they may impact your decisions.

Examples of such programs and/or terms might include:

- Prohibiting future monetary-related evictions for a set period of months. This could apply to the resident receiving the assistance and other residents at the community.
- Requiring a written notice of past due rents. This requirement might also ban any threat of eviction that violates the moratorium or other prohibitive legislation.
- Forgiving some portion of the rent where the assistance program pays a certain percent, and the owner must be willing to write off the balance.
- Establishing clear tracking, documentation and record-keeping guidelines, as many programs may be subject to external auditing.
- Canceling any pending action against the resident.
- Certifying there are no nonmonetary issues pending against the resident.
- Extending lease expirations up to the date on which a resident may be eligible for assistance.

The National Council of State Housing Agencies provides links to information on emergency rental assistance programs by state at [ncsha.org/emergency-housing-assistance/](https://ncsha.org/emergency-housing-assistance/).

## Establish Fair and Consistent Policies and Criteria

Once you have taken into account any programs that extend benefits to residents beyond the CDC moratorium, one way to approach residents who have deferred/unpaid rent is to segment them into three groups. Each group will require a fair and consistent policy and, for all groups, clearly communicate your company's post-moratorium intentions and policies before the moratorium expires.

Group	Suggested Actions
Residents with no plan and making no efforts to pay	<p>Prioritize these residents for personal contact <b>after</b> speaking with legal counsel and <b>before</b> the moratorium ends. Follow company, owner or legal counsel guidance regarding payment plans or other arrangements.</p> <p>If this group is especially large, set some priority guidelines. For example:</p> <ul style="list-style-type: none"><li>• Largest balances</li><li>• Oldest balances</li><li>• Refusing all attempts to discuss balances</li></ul>
Those with a payment plan who are not keeping up with payments	<p>You may not want to proceed with eviction. Try getting the resident back on track with consistent payments.</p>
Those with a payment plan who are on track with payments	<p>Ideally there is no need to take additional action with this group, but it never hurts to touch base and let them know you appreciate their on-time payments.</p>

## Maintain a Service Mindset

Remember that your residents are the business, and they are also going through a very hard time. Keeping residents in place with arrangements to pay the rent that is owed is nearly always better in the long term and saves everyone time, effort, stress and money over moving to evict.

### Before taking any action:

- Make attempts to reach out to all residents who have deferred accounts.
- Explore options for resident or management company-initiated rental assistance programs. Collecting the rent is a better approach than creating vacancy loss after incurring a lot of bad debt.
- Consider offering residents the option of moving out prior to the start of any legal action. This lets a resident save face and can prevent them from being denied future housing based on past eviction status.

## Consider your Reputation

We all want our communities to recover from the COVID setback and continue to thrive. How we handle the current challenges helps determine whether we enhance our reputation as a fair-minded and caring place where people want to be, or whether our reputation suffers in the public view. To keep your community's reputation in mind:

- Check with your management company leadership or owner before taking any action.
- Consider that management companies that work across multiple cities or states may or may not proceed with evictions in one area while another area is still under a local or state moratorium.
- Discuss what risk may exist from media coverage or social media backlash based on actions you plan to take.



## Manage the Workload, Support the Team

Some communities will find themselves overcome by the extra work required during this time. Training team members to use a consistent process can help with both time management and potential fair housing implications.

In addition, working with residents in distress can be emotionally taxing. Provide supportive reassurance to employees who are tasked with this work. Bring the team together regularly to create a shared experience, celebrate successes and exchange knowledge. And show your support for their efforts often.

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