

## ***Executive Briefing: COVID-19 Eviction Policy October 2020***

### ***The response from policymakers continues to evolve...***

- At the outset of the COVID-19 pandemic, healthcare concern was the primary frame to justify eviction moratoriums – keep people in their homes and off the streets.
- This narrative continues to be used to argue against displacement in the media and in court proceedings, as the pandemic persists.
- As more than 57.4 million Americans have applied for unemployment benefits since mid-March, the apartment industry anticipates that a significant number of their residents will be affected.
- Moreover, as federal financial relief terminated and renters' savings are depleted, these ongoing challenges interfere with renters' ability to pay their rent, which could have cascading effects not only on the rental housing system, but state and local governments and the broader economy.
- It is the financial relief that the government has provided to date that temporarily stabilized renters during these difficult times and prevented widespread evictions. Eviction moratoria are not the answer and do nothing to solve renters' housing insecurity.
- In the 43 states and Washington, D.C. that enacted eviction moratoria in light of COVID-19, 27 of these renter protection measures have expired.
- Massachusetts, Nevada, Florida, have allowed their moratoriums to expire in October. Of the 14 moratoria still in effect:
  - 6 limit protections to renters experiencing COVID-19 financial hardship.
  - 5 prohibit serving eviction notices.
- Alternatives to eviction moratoria extensions also bring significant challenges for apartment owners and operators.
  - Broad extension of notice to vacate provisions that give renters months to pay outstanding balances before housing providers can evict.
  - Mandated repayment plans that provide the renter sometimes months or years to repay outstanding balances accrued during the COVID-19 emergency.
  - Allowing renters to claim inability to pay rent as a defense to an eviction action during state of emergencies or public health emergencies.
  - Preventing the execution of writs of possession and converting outstanding rental debt into collectable civil debt which cannot be used to initiate an eviction action.
- [The current framework of eviction policies is complex](#) and sometimes conflicting, making compliance difficult. The [Centers for Disease Control's \(CDC\) federal eviction moratorium](#) remains in effect until the end of the year. While it was intended to be

temporary, the CARES Act Notice to Vacate requirement has no clear sunset date and other federal, state, and local renter protections layer onto the process.

- We are encouraged by new federal [guidance](#) released which clarifies outstanding issues related to the CDC Order.
  - Importantly, the Order does not suspend court proceedings or prevent housing providers from initiating eviction actions.
  - Housing providers do not have to distribute the declaration to residents and retain the right to contest the truthfulness of a renter's declaration in court.
- However, more work must be done to help those who face ongoing challenges as the pandemic persists, including struggling rental housing owners and managers.
- While we continue our federal advocacy efforts on behalf of the industry, NAA [remains committed](#) to fighting the CDC Order in court.

### ***Rent collections are generally stable overall, but will it last?***

- Collections through October 6, 2020 exactly match the 79.4% payment level recorded through October 6, 2019.
- Stimulus payments, unemployment benefits (which expired July 31), rental assistance and reliance on savings may explain the stronger than expected rent collection data.
- According to [MRI](#), credit card payments for rent account for 33% of electronic payment volumes, representing an increase of 92% comparing August to January 2020.
- According to [RealPage](#), challenges are becoming more apparent for renters in Class C product as collections been weak each month since April.
  - RealPage stats show payment rates for October 1-6 at 84.5% for Class A product and 83.9% for Class B inventory.
  - Renters in Class C properties paid 54% of total rents due in June by the middle of the month, according to a study by [LeaseLock](#). In July, even with emergency unemployment relief still flowing, the figure slipped to 37%. Collection numbers for Class C have increased since, hitting 71.9% on October 6th.
  - Big metros where the most payments have been missed continue to include Las Vegas, New York, San Jose, Los Angeles, Seattle and Milwaukee. The share of households current on their rent payments runs 5 to 7 percentage points under year-ago levels in each area.
- Moreover, 27 percent of the respondents to the [US Census' Household Pulse Survey](#) have no or only slight confidence in their ability to make next month's rent payment on time.
  - 2.2 percent of the adult population is concerned about getting evicted or facing foreclosure.
- See the [COVID-19 Economic Impact page](#) on NAA's website for more information.

### ***Talking Points***

- Nobody wants to see anyone lose their home, but preventing would-be evictions harms the well-being and housing of all other residents.

- Financial pressures of operating a community at a deficit jeopardizes the property's future and increases risk of losing it to the bank or county; there are still bills to pay, and if they can't be paid, the owner may lose the property and people will lose their homes.
- Rental housing providers and renters must maintain their rights to due process and access eviction courts. Evictions are the only mechanism available to address criminal and/or unsafe activities (and to address holdover tenancies).
- Eviction is the sole legal remedy for rental housing providers to remove a resident who has breached the lease, lawfully regain possession of the owner's property and maintain the safety, peaceful enjoyment and successful operation of apartment communities.
  - If an owner is moving forward with an eviction, there is a legitimate business reason/pressing need to do so.
  - An owner is NOT made whole by an eviction – they have legal fees and expenses to re-lease the unit, and often never receive unpaid rent
  - Certain circumstances can only be resolved through the eviction process. If a renter abandons his or her apartment, a rental housing provider can obtain legal possession only through the eviction process.
  - If this legal avenue remains closed, the unit will remain empty, exacerbating housing affordability challenges in cities, towns and rural areas.
- Rental housing providers continue to work with their residents impacted by COVID-19 on rent repayment arrangements, waive fees and connect them with social service resources.
- Eviction moratoria interfere with these good-faith efforts and hinder housing providers' ability to pay their bills and maintain quality housing for their residents.
- If an eviction moratorium or its extension is being considered, non-renewals and termination notices should be excluded from the scope of the prohibition.
  - Housing providers should be able to issue non-renewal and termination notices at the end of the lease term in accordance with applicable laws, which signify the tenancy is ending at the expected time.
- Eviction moratoria should allow notices and evictions to proceed based upon any lawful reason unrelated to nonpayment of rent.
  - Housing providers should be able to use their only legal remedy to respond to renters' urgent concerns or retake possession of abandoned units/address holdover tenancies. The latter ensures housing can be made available to renters in need during the crisis.
- An eviction moratorium is not the answer and will do nothing to stabilize renters' housing insecurity.
- An eviction moratorium interrupts the [revenue needed](#) to pay employee salaries, mortgages, property taxes, maintenance, and utilities.
- In the long term, outstanding balances compound month-after-month increasing the risk that renters will be unable to catch up and ultimately lose their housing, while the financial solvency of the property is in greater jeopardy. This scenario puts entire communities of renters at risk for displacement.

- Small housing providers make up a significant proportion of rental property owners overall, and many housing providers, in general, often function on low margins that cannot sustain substantial losses of rental income.
- Rent feeds the economy; eliminating payments would have a ripple effect. [Rental housing providers are the last paid](#); most rental income passes through to other sectors of the economy.
  - Only 9 cents of a dollar go to owners and investors, including public pensions and 401ks.
  - The mortgage accounts for approximately 39 cents;
  - 27 cents cover payroll, ongoing maintenance, utilities, insurance, etc.;
  - 14 cents go to property taxes, funding schools and emergency services;
  - 10 cents go to capital improvements, which maintain the quality of the community.
- The financial assistance that the government has provided to date has prevented widespread evictions. Continuity of this assistance, whether through enhanced unemployment benefits or rental assistance, must be the priority.
- [Emergency rental assistance](#) paid directly to housing providers, as is the practice with existing federal housing programs, and delivered through the most efficient and effective channels is crucial to mitigating displacement and ensures providers, especially small operators, can continue to pay their bills and keep rental housing operational.
  - Continued poor rent collection numbers for Class C properties endangers [America's affordable housing supply](#) and puts mom-and-pop landlords at the biggest risk of mortgage default. Should their buildings go into foreclosure, the buyers may not keep them affordable, or even as rentals.

### ***Additional Considerations***

- State and local apartment associations may want to consider surveying their members to understand how many renters are at risk of eviction.
  - According to a survey of members by the Florida Apartment Association, as of July respondents indicated that an average of 2.23% of apartment homes are currently susceptible to an eviction filing. 48.4% of these pending evictions result from residents who are unresponsive to property management efforts to engage them or unwilling to enter into a payment plan agreement.
  - According to a NAA/IREM survey, 85% of owners say that fewer than 10% of residents would be facing an eviction if federal and state eviction moratoriums weren't in place.
- A widely cited study by the Aspen Institute concluded “19 to 23 million, or one in five of the 100 million Americans who live in renter households, are at risk of eviction by September 30, 2020. However, according to [Real Page](#), this conclusion was based on “an assumed renter unemployment rate between 25 % and 30%.” The unemployment rate fell to 7.9 percent in September from 8.4 percent in August, casting doubt on this prediction.

- The study also appears to assume a jobless worker means a zero-income household, ignoring dual-income households and other avenues of financial support.
  - The Apartment Association of Metro Denver (AAMD) has conducted research that shows there is no correlation between eviction filings and the unemployment rate in Colorado. Other affiliates may want to consider conducting similar research for their states and localities.
- According to the National Leased Housing Association [Survey](#) of Low- and Moderate-Income Housing Providers, nearly three-quarters of housing providers have had increased operating expenses due to COVID-19. (NAA members contributed to this effort)
  - Rental income has declined for nearly nine in every ten housing providers due to COVID-19.
  - Less than 18 percent of housing providers have evicted residents for non-payment during the pandemic.
  - 44 percent of housing providers have canceled or postponed future housing investments.
- For more advocacy strategies and insights related to eviction moratoria, view the recording from the GART Virtual Learning Series [here](#).