Guidance for Eviction Moratorium- as of 04/23/20

Key points
• #1 – Continue to pay your rent on time if you can! This is not a free pass to skip rent. These measures are to protect people from being put out of their dwellings.
• #2 – Talk to your landlord if you believe you will not be able to pay rent due to a COVID-19 job loss, illness, etc. Discuss if there is any amount you can pay, something may be better than nothing, and you will be responsible for eventually paying missed rent.
• #3 – Consider contacting a lawyer. Search “Legal Aid” for lower cost resources.

Tenants
○ Determine if the building you live in is a covered dwelling under the CARES Act
    ▪ If yes, from March 27-July 25, 2020 no eviction proceeding may even be initiated (filed), and the tenant cannot be required to vacate for 30 days after this period
    ▪ If no, the tenant is protected from eviction under Executive Order, and beginning on 4/23/20 no action eviction proceeding may even be initiated for the duration of the disaster proclamation
• Important: The federal eviction moratorium does not affect cases: a) that were filed before the moratorium took effect or that are filed after it sunsets b) that involve non-covered tenancies (see below), or c) where the eviction is based on another reason besides nonpayment of rent or nonpayment of other fees or charges.¹
• If you are a suburban Cook County resident and need financial assistance with mortgage, rent payments, rent deposits, utility payments, or other housing issues please call the Homeless Prevention Call Center at (877) 4-COOK-15 or (877) 426-6515. Listen carefully to the prompts to choose which kind of help you need.

Legal Resources:
○ [https://www.legalaidchicago.org/](https://www.legalaidchicago.org/)
○ [https://www.tenants-rights.org/](https://www.tenants-rights.org/)

Landlords
○ Determine if the property is covered under the CARES Act and entitled to a forbearance
    ▪ If yes, APPLY for a forbearance, the property owner must contact the lender
○ Understand that tenants are still obligated to pay rent, and will eventually be required to pay missed payments, but not necessarily late fees or other fees.

Lease Renewals
• Typically, when a lease is expiring, the tenant must notify the landlord of intention to renew or vacate 30 days before the lease expires (or according to lease)
• If that landlord does not agree to a renewal, but the tenant remains in the unit, the tenant is considered a “holdover” and must continue paying rent

If the landlord informed the tenant of a rent increase at least 30 days prior to lease expiration, that new amount will be the rent on a month-to-month basis. Otherwise, the lease continues at the same rate as a month-to-month lease.

- Even absent an agreement to extend the lease, the tenant could—practically speaking—remain in the dwelling without fear of being forcibly removed by the police for the duration of the disaster proclamation/or under the CARES Act timeline.
- But the landlord still has the remedy of eviction and can sue for any rent owed and to have the tenant evicted once the protections end.
- The tenant will ALWAYS be responsible for paying the rent, unless another agreement it made with the landlord (best in writing).

**Federal CARES Act Provisions**

- **Key Takeaways:**
  1. Multifamily building owners who had federally backed mortgages in good standing prior to the COVID-19 outbreak must contact their servicers to seek loan forbearance. Loan forbearance is not automatically granted merely because loans are federally backed.
  2. During any period that forbearance is in effect for a federally backed multifamily mortgage, such owners shall not be able to evict the tenants or initiate eviction actions, and no tenant may be evicted until 30 days after a notice to vacate is delivered.
  3. The CARES Act eviction moratorium is in effect for a period of 120 days (commencing March 27, 2020) whether or not multifamily building owners avail themselves of loan forbearance for any federally backed mortgages.²

- Tool that shows some properties subject to the moratorium: [https://nlihc.org/federal-moratoriums](https://nlihc.org/federal-moratoriums)

**Illinois Executive Orders**

- Residential premises: an eviction action cannot be initiated during the proclamation.
- Non-residential premises: an eviction order cannot be enforced during the proclamation.
- **3/20/2020: 2020-10³**
  - Section 2. Order ceasing evictions. Pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(2), (8), and (10), all state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for residential premises for the duration of the Gubernatorial Disaster Proclamation.
- **4/23/2020: 2020-30⁴**
  - Section 2. A person or entity may not commence a residential eviction action pursuant to or arising under 735 ILCS 5/9-101 et seq., unless a tenant poses a direct threat to the health and safety of other tenants, an immediate and severe risk to property, or a violation of any applicable building code, health ordinance, or similar regulation.
  - Section 3. All state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for non-residential premises, unless the tenant has been found to pose a direct threat to the health and safety of

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³ [https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx](https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx)
⁴ [https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-30.aspx](https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-30.aspx)
other tenants, an immediate and severe risk to property, or a violation of any applicable building code, health ordinance, or similar regulation.

Cook County/Statewide

- Federal Moratorium will pause evictions if the conditions are met
- If the property does not fall under the protections of the CARES Act, the Executive Order will prevent any eviction actions from being commenced against residential tenants, and from being enforced against non-residential tenants
  - **PRIOR TO APRIL 23, 2020:** It is possible that a tenant may have received a valid 5-Day Notice to pay rent, and an eviction action may have been FILED with the Court, starting the process, but
    - Cook County Circuit Courts are NOT making final rulings on evictions or foreclosures
    - Other Circuit Courts issued their own terms about what matters the courts would hear
    - **AND** law enforcement cannot remove a tenant from his or her home