

COVID 19 FACT SHEET

SUMMARY OF RESIDENTIAL TENANT PROTECTIONS

NON-PAYMENT OF RENT DUE TO COVID-19

Rent is still due and owing during this emergency; however, most tenants cannot be evicted for non-payment of rent right now. Several changes in the law occurred which may apply to a non-payment of rent eviction.

FEDERAL CARES ACT: The CARES Act is a federal law prohibiting certain landlords from filing new lawsuits for evictions and charging fees for late rent payments for non-payment. This law protects tenants in federally subsidized housing programs, HUD Housing Programs, Low-Income Housing Tax Credit properties, and tenants living in private housing where the owner has a federally backed mortgage on the property. A mortgage is federally backed if it is insured or assisted in anyway by: HUD, the VA, USDA, Fannie Mae, Freddie Mac, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. Most mortgages in the United States are federally backed.

Here are non-exhaustive databases of properties that have federally backed mortgages:

<https://nlihc.org/federal-moratoriums>

<https://florida.evictionprotection.org/>

Note that these search tools do not cover mortgages for buildings with 1 to 4 units or buildings where at least one tenant uses a Section 8 voucher. Your home may be covered under the CARES Act even if it is not listed in these databases.

The CARES Act moratorium went into effect on March 27, 2020 and extends for 120 days (until July 24 or 25, 2020). The landlord should not serve a notice to pay rent or vacate while the moratorium is in place. After the moratorium ends, the landlord must provide at least 30 days' notice before filing a lawsuit for eviction based on non-payment of rent. Additionally, the landlord cannot charge you late fees during this time.

NOTE: the CARES Act moratorium does NOT prevent the landlord from filing evictions for lease violations unrelated to non-payment of rent, but does require that they follow the new notice provisions. The landlord can also proceed with evictions filed before March 27, 2020. However, the statewide order below may provide protection.

FLORIDA STATEWIDE EXECUTIVE ORDER: In addition to the Federal CARES Act there is a separate Florida statewide eviction moratorium signed on April 2, 2020. This Statewide moratorium applies to non-payment of rent evictions. Evictions will be suspended through June 30, 2020 through EO 20-137 extending EO 94-20. However, it DOES NOT relieve the tenant's rent obligation during this period. Additionally, the tenant may need to demonstrate that the failure to pay rent is due to the COVID-19 crisis. It will be important to gather as much documentation as you can showing your inability to pay rent is related to COVID-19. For example, documentation of when and why you lost your income may be helpful if you lost your income due to the COVID-19 Emergency.

MIAMI-DADE COUNTY ORDINANCE: There is a law suspending evictions from Miami-Dade Public Housing and County Owned Affordable Housing during a state of emergency. You **may** be served with an eviction, but you cannot be physically evicted. According to this law, Miami-Dade County Public

Housing and Community Development ("PHCD") cannot take "any action to facilitate the eviction of residents." This law likely means that PHCD should not be taking any steps in the eviction process if you live in public housing or county owned housing.

Additionally, the County has passed an ordinance mandating that if you live in housing subsidized through

Miami Dade County or Miami-Dade County Public Housing and Community Development ("PHCD") then your rent cannot be raised during a state or county emergency, except in limited circumstances. Rent increases covered under the policy cannot take place until 30 days after the state of emergency ends.

MIAMI-DADE COUNTY COURTS: As a result of the Federal CARES Act, the Miami courts have instituted Administrative Order 20-10, entitled *In Re Evictions under the "Coronavirus, Aid, Relief and Economic Security Act" (the Cares Act)*. This is a rule requiring every landlord who has filed a non-payment of rent eviction on or after March 27, 2020 to file a declaration under penalty of perjury verifying whether or not the property which the eviction case is seeking to recover possession of has a Federally backed mortgage loan, a Federally backed multifamily mortgage loan, or is otherwise a "covered dwelling" under section 4024 of the CARES Act. This sworn declaration of the landlord asserting that their property is not a "covered dwelling" can be filed after the eviction is filed. However, this declaration must be filed before any landlord can obtain a judgment of eviction in a non-payment of rent eviction.

In Miami Dade, the Clerk of the Courts is presently not issuing summonses in eviction cases during the eviction moratorium. While there is a state of emergency in place, the Sheriff's Department is not executing Writs of Possession which means it is not physically evicting people from their homes.

MIAMI-DADE COUNTY COURTS: Courthouses have partially re-opened. If you had a deadline in an eviction case from March 16 through May 29, 2020- the deadline was likely extended until June 1, 2020. You should try to meet this deadline right away. Courts are not open to the public but are required to let you file Answers, Motions to Determine rent, and emergency filings in your eviction case. The Courts are also required to allow you to deposit money into the court registry.

For information on how to electronically file documents on your own visit: <https://www.jud11.flcourts.org/coronavirus/ArtMID/2392/ArticleID/3445/COVID-19-Advisory-10-Self-Represented-Litigants-Urged-to-Sign-Up-on-Florida-Courts-e-Filing-Portal>

MONORE COUNTY COURTS: Deadlines are not tolled, but the statewide moratorium is in place through June 30, 2020.

RESOURCES: Please visit our websites for additional information or to apply for our services: <https://www.legalservicesmiami.org/covid-19> & <http://communityjusticeproject.com/covid19>