

Understanding the CDC's Federal Moratorium on Evictions

September 15th, 2020

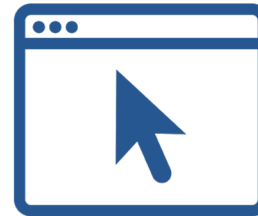
Webinar Information



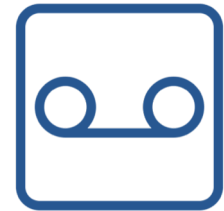
All participants
lines are
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Use the
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to COHHIO's
website.



This webinar is
being recorded.





- Bill Faith, Executive Director of the Coalition on Homelessness and Housing in Ohio



- Diane Yentel, President and CEO of the National Low Income Housing Coalition



- Carlie Boos, Executive Director of the Affordable Housing Alliance of Central Ohio

Increasing Rent Non-Payment

- 76.4% of apartment households paid rent the first week of September – nearly 5% decrease from August (NMHC)
- 288,000 Ohio households are behind on rent; 125,000 think eviction is likely (Census Bureau)
- 54% of total rent due for Class C units was collected the first 15 days of June, in July only 37% (LeaseLock)

September Eviction Filings

- Cleveland – filings down 33% from average; in August filings were down 58%
- Cincinnati – filings down 13% from average September
- Columbus – filings are up 33% from average September

(Source: Eviction Lab)



Diane Yentel, President and CEO of the National Low Income Housing Coalition

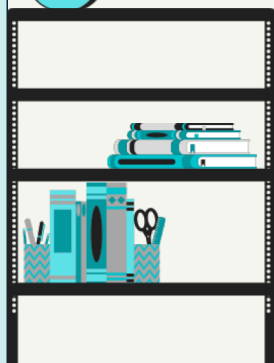


Today's date is
September 15, 2020

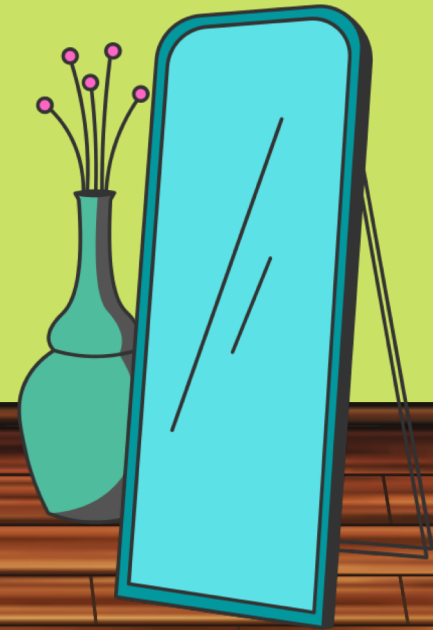
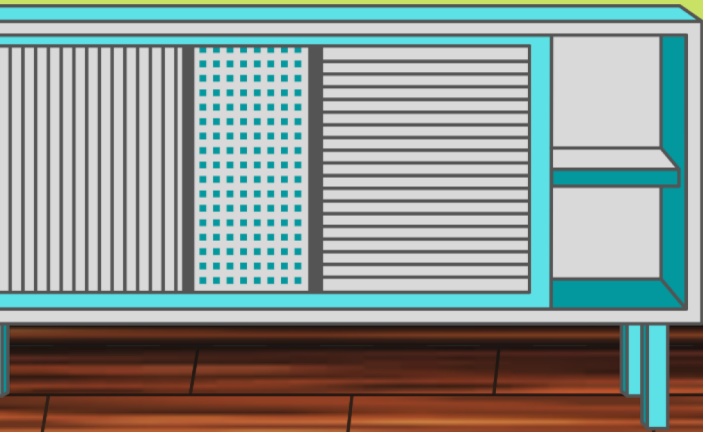
CDC Eviction Moratorium

What We Know &
What We're Still Learning

Affordable
Housing
Alliance of
Central Ohio



THIS IS NOT LEGAL ADVICE
I AM NOT YOUR ATTORNEY



The Protection

A landlord shall not evict any person from any residential property through December 31 2020 for nonpayment of rent

No rent relief.

No owner relief.

No payment plan.

No grace periods.



Who Qualifies

Renters

- Not just those with units federal support
- Includes mobile homes
- Includes mobile home land leases

Low and Moderate Incomes

- (1) Expect to earn \$99k or less in 2020
- (2) not required to report income in 2019 or
- (3) received a stimulus check

Opt-In

- Must affirmatively apply for protections

Who Doesn't

Homeowners & Businesses

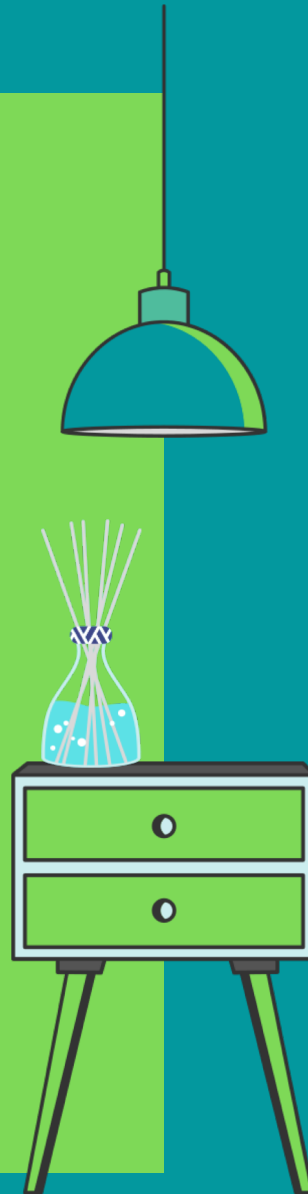
- Excludes Foreclosures
- Limited to Residential property

Hotel, Motel, Guest Houses

- Temporary or Seasonal
- Most airbnb likely excluded

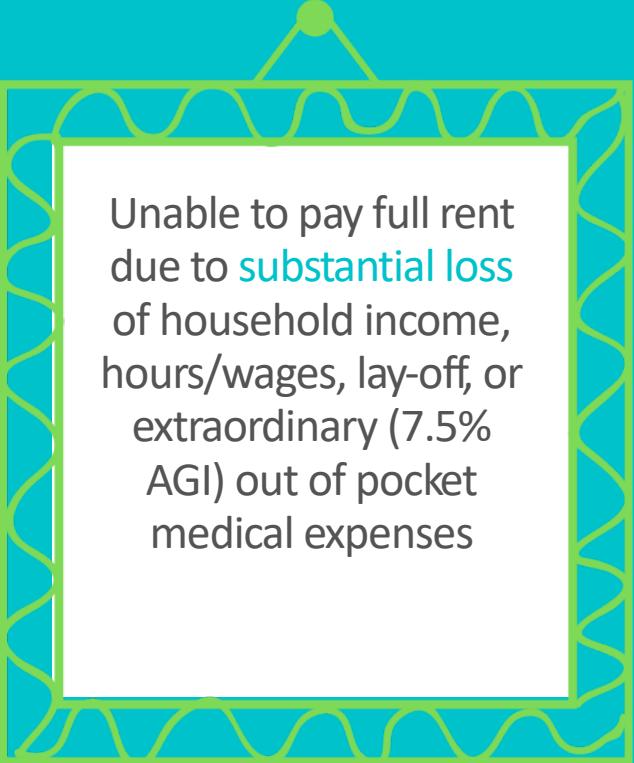
Unknown Eligibility

- Land Trusts
- Land Contracts
- Other Rent-to-Own





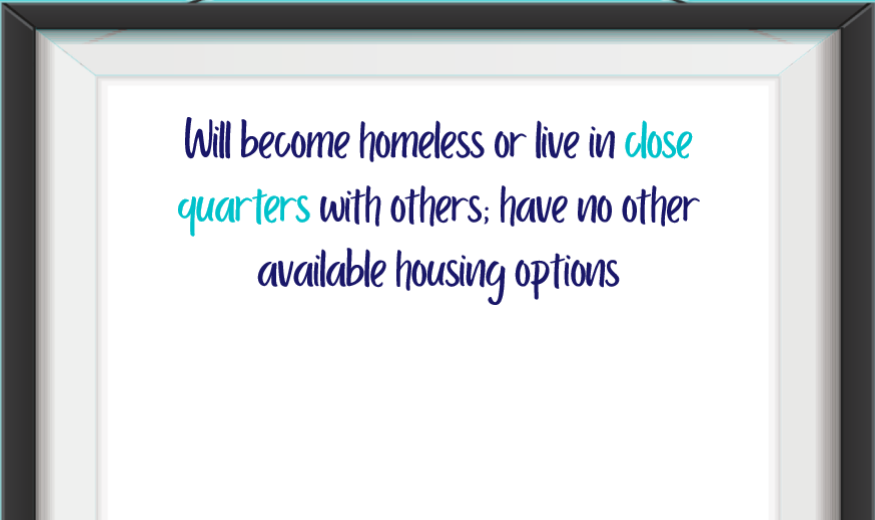
Used **best efforts** to
obtain **all available**
government
assistance for **rent or**
housing



Unable to pay full rent
due to **substantial loss**
of household income,
hours/wages, lay-off, or
extraordinary (7.5%
AGI) out of pocket
medical expenses



Using best
efforts to make
timely partial
pmts as circum-
stances
allow



Will become homeless or live in **close**
quarters with others; have no other
available housing options



IN THE Municipal Court
Franklin COUNTY, OHIO

Mr. Landlord
Plaintiff (Landlord) :

Case No. 20-12345

vs. :

Mx. Tenant
Defendant(s) (Tenants) :

Judge Honorable

**DECLARATION UNDER PENALTY OF PERJURY FOR THE CENTERS FOR
DISEASE CONTROL AND PREVENTION'S TEMPORARY HALT IN EVICTIONS TO
PREVENT FURTHER SPREAD OF COVID-19**

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;¹
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses;²
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

¹ "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

² An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

OhioLegalHelp.org

Declaration form can be anyone that is similar to the
CDC template

If your local courts require or prefer something
different... use that one

Return it to the landlord or owner
(probably their attorney, too)

"Should" be completed by all adults listed
on the lease

One-time cert should be okay. But consider resubmitting if
circumstances change

The Caveats

This prohibits evictions for non-payment of rent, not "other reasons". Listed examples of evict-able offenses include criminal activity, threatening health, "significant risk" to property, violating local code, and "other"

Doesn't cap fees, but Ohio law may.

Order references possible availability of ESG, CDBG, or Treasury funds for temporary rent relief. Ohio does not have any of these programs, a patchwork of help may be available at the local level.



Unknowns

What does "all available government assistance" mean?

Can landlord evict by not renewing a M2M lease?

What other non-nonpayment actions can result in eviction?

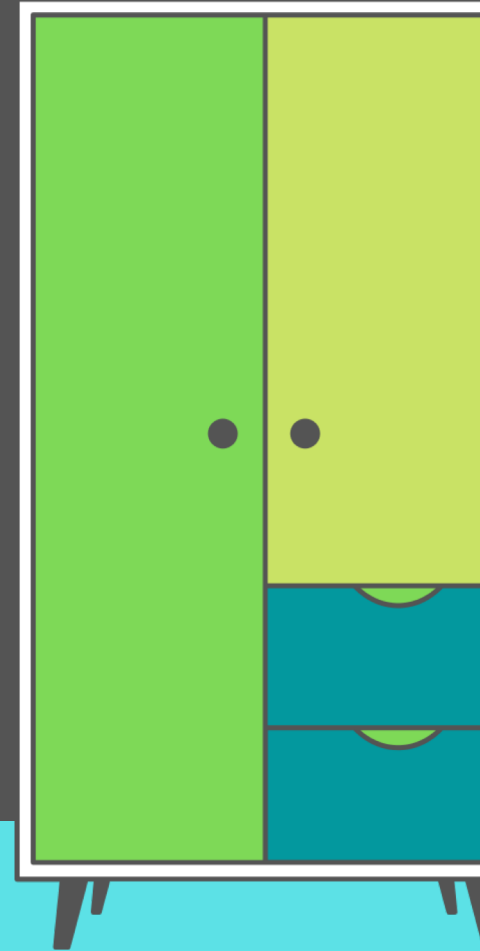
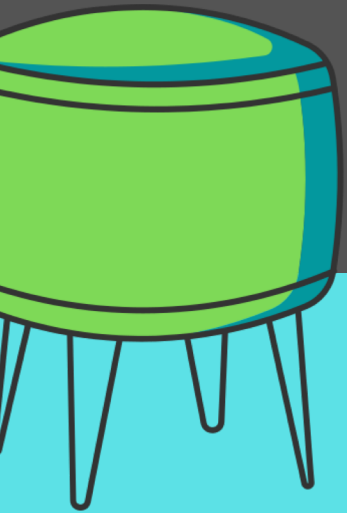
What happens on January 1st?



A Word of Caution

Fines start at up to \$100k and a year in jail. Increases if someone dies because of the violation. DOJ oversees criminal penalties.

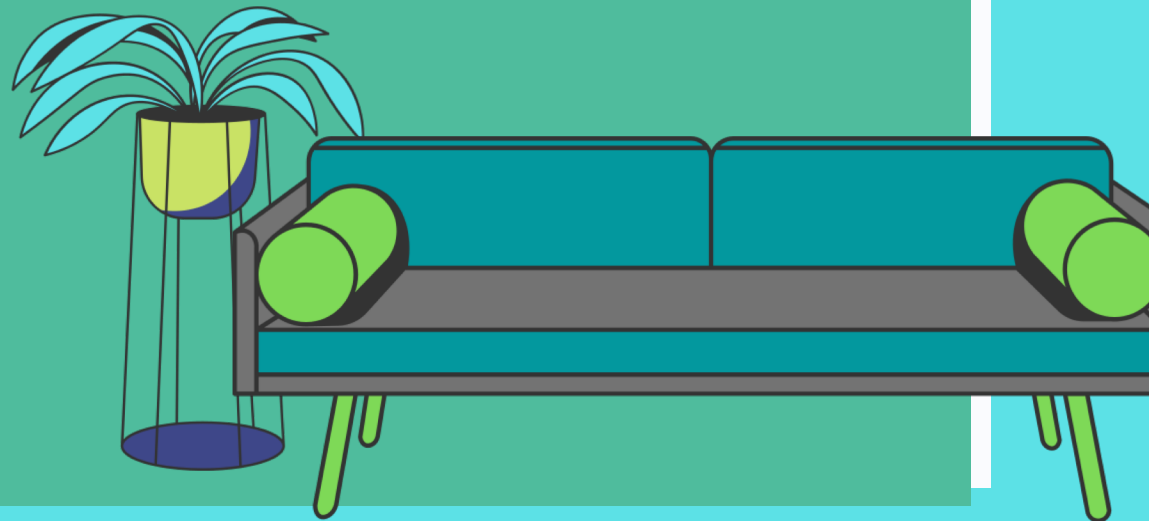
No self-help!



Challenges

At least one legal challenge was filed (Brown v. Azar et al, 1:2020cv03702) and is currently seeking a temporary restraining order to suspend implementation. The suit asserts multiple constitutional challenges:

- Exceeded Delegated Authority
- Violates Right to Court Access
- Violates Supremacy Clause
- Violates 10th Amendment
- Commandeers State Resources
- CDC is Legislating, Violating Art. 1
- Executive Can't Suspend State Law





#RentReliefNow
#GetBackToWork

How Can We
Help?

GET
Loud

Stay in touch!

www.AHACO.org



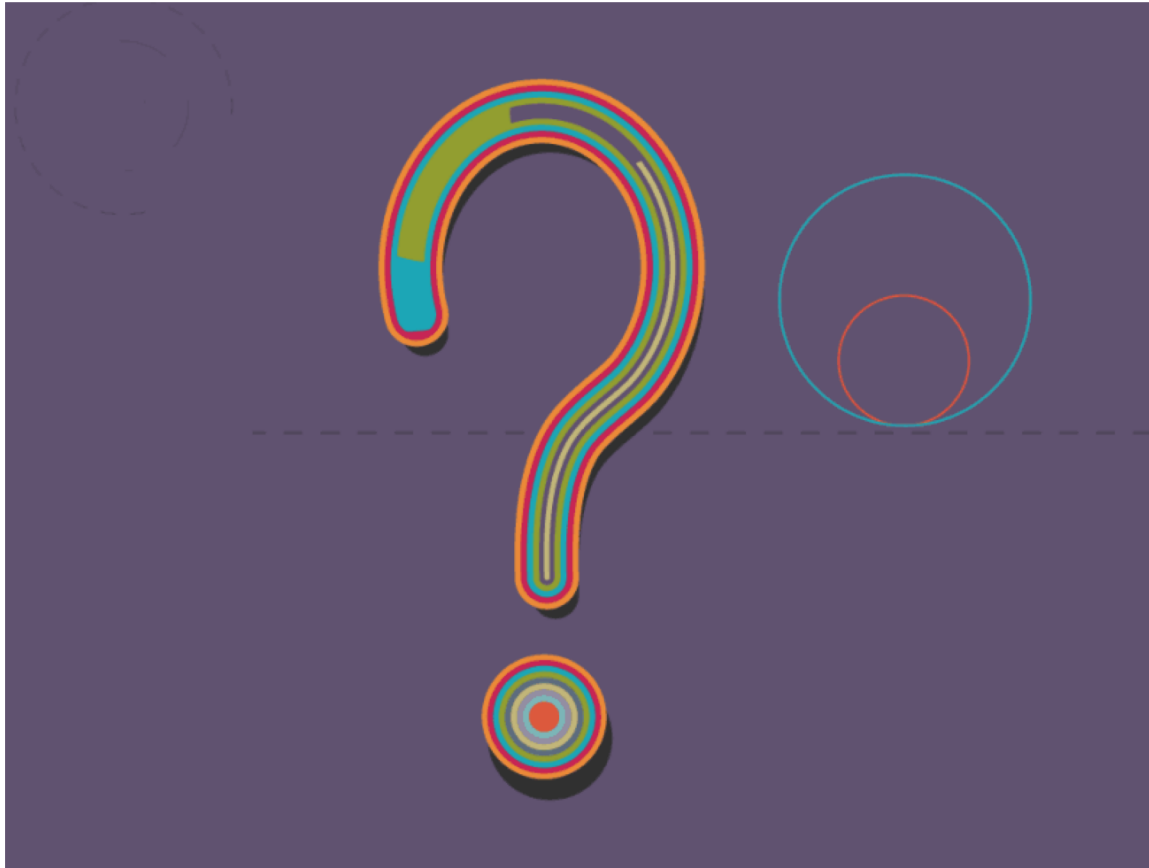
[@AffordHouse_OH](https://twitter.com/AffordHouse_OH)



facebook.com/AHACOhousing

Carlie@AHACO.org

Questions



Eviction Prevention Resources

Ohio Legal Help:

- COVID-19 Renter Protections:
<https://www.ohiolegalhelp.org/topic/covid-19-renter-protections>
- CDC Eviction Moratorium Declaration Form:
<https://www.ohiolegalhelp.org/letters-forms/cdc-eviction-moratorium-declaration-form>

NLIHC: <https://nlihc.org/national-eviction-moratorium>

OHFA: <https://ohiohome.org/compliance/CC/CDC-EvictionMoratorium.html>