

TENANTS' RIGHTS DURING COVID-19

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Through Advocacy, Education, Litigation

*the Virginia Poverty Law Center (VPLC) breaks down
systemic barriers keeping low-income Virginians in the cycle
of poverty*

WHAT WE WILL COVER TODAY:



OVERVIEW OF
EVICTION PROCESS



FEDERAL EVICTION
MORATORIUM



OTHER TENANT
PROTECTIONS &
RESOURCES



REPAIRS AND
MAINTENANCE
DURING COVID



The Eviction Process in Virginia

- 1 Notice of Default or Termination
- 2 Summons for Unlawful Detainer
- 3 Court Date
- 4 Judgment for Possession
- 5 Appeal Period
- 6 Writ of Eviction
- 7 Eviction Notice
- 8 Extended Redemption
- 9 Eviction by Sheriff

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Eviction Legal Helpline
1-833-NoEvict

Find Your Local Legal Aid Office
1-866-LEGL-AID

For More Information Visit
www.vplc.org



Get Legal Advice as Soon as Possible

You might be able to fight your eviction. It depends on the facts of your case. Only an attorney can tell you for sure. The earlier in the process you learn your rights and options, the better chance you have to avoid eviction.

Call for free legal information and advice:

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This is general legal information, not legal advice from an attorney. It is provided by the Virginia Poverty Law Center together with the Campaign to Reduce Evictions (CARE).

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1 Notice of Default or Termination



Before filing in court, the landlord must give you written notice of lease termination.

It usually gives 5 days' (for unpaid rent) or 30 days' warning.

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2 Summons for Unlawful Detainer



When the landlord sues, you will receive Summons.

It gives the date, time and location for your first hearing in court.

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3 Court Date



You must go to court if you want to fight your case.

If it is only for unpaid rent, you **might** have the right to pay everything by the court date and avoid a judgment.

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4 Judgment for Possession



If the judge rules for the landlord, they get a judgment for possession. This means they can take the next steps to evict you.

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5 Appeal Period



After a judgment, you have 10 days to appeal. In that time, you will need to file appeal papers and pay the court all rent owed, an amount the judge will set.

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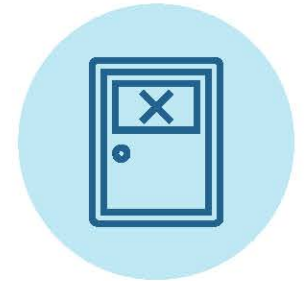
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6 Writ of Eviction



After getting a judgment for possession, the landlord asks the court for a 'writ of eviction.' It instructs the sheriff to schedule the eviction.

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7 Eviction Notice



Soon after receiving the writ, the sheriff will give you a copy and a notice with the date and time they will return to evict you. This happens at least 72 hours before the eviction.

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8 Extended Redemption



Up until two business days before the scheduled eviction, you **might** have the right to pay everything you owe and stay in the home.

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9 Eviction by Sheriff



Unless the court or landlord cancels the eviction, the sheriff will return on the date and time on the notice to physically remove you and have the locks changed.

REMEMBER THESE THREE THINGS

UNDER VIRGINIA LAW, THESE ARE ALWAYS TRUE



Your landlord cannot cut off your utilities, lock you out, or take other actions to deny you free use and enjoyment of your home.



You do not have to move out just because your landlord tells you to leave or files an eviction case against you.



Your landlord must wait until he wins in court and the sheriff has a writ of eviction against you before removing you from the property.

If your landlord locks you out or cuts off essential services (heat, water, gas, or electricity) without going through the court, there are steps you can take to get back into the property and restore services.

ILLEGAL EVICTIONS

NO SELF-HELP EVICTIONS IN VIRGINIA



Call For Help

If you feel comfortable doing so, call your local sheriff's office or police for help getting back into the property/restore services.



File Petition In Court

File a lawsuit against your landlord, called a "Tenants' Petition for Relief from Unlawful Exclusion." For more information on how to file, visit <https://tinyurl.com/y4reymco>.

SPECIAL RULES FOR HOTELS, MOTELS, & BOARDING HOUSES

If you have lived in a hotel or motel for MORE THAN 90 DAYS:

You are a tenant , and the hotel owner or manager cannot evict you without taking you to court and getting a court eviction order.

- “Live in” means it is your only home.
- If you are a tenant (> 90 days), the landlord must give you a “5 day pay or quit” notice before he can take you to court in an eviction case for not paying.

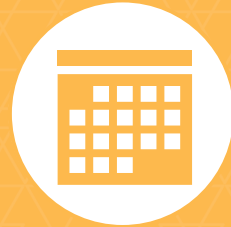
If you have lived in a hotel or motel for LESS THAN 90 DAYS:

The hotel owner or manager can evict you using “self-help”, like rekeying your door. BUT, if the eviction is for not paying, they must still give you a written notice 5 days before evicting you.

FEDERAL PAUSE ON SOME EVICTIONS



CARES ACT



Requires some landlords to give tenants a 30-day notice before starting eviction process for non-payment of rent.

CDC Moratorium



Helps people who have been unable to pay rent due to a loss of income or high medical expenses.

Landlords must provide tenants covered by the CARES Act a 30-day notice (rather than the typical 5-day notice) before filing for an eviction for non-payment of rent.

FEDERAL CARES ACT PROTECTIONS

SPECIAL RULES FOR SOME TENANTS

How does the CARES Act help me?

If you live in housing covered by the CARES Act and your landlord is suing you for not paying rent, your landlord could not charge you late fees or begin an eviction case against you for unpaid rent until July 25, 2020. After that, your landlord must give you a written notice at least 30 days before filing an eviction case against you in court.

If your landlord is suing you for an eviction for other reasons (such as you stayed past the end of your lease period), your landlord can still file an eviction against you under the normal eviction process.

The CARES Act applies to subsidized housing and private properties that are backed by federal guarantees mortgages. Talk to a lawyer if you have questions or need help finding out if your housing is covered by the CARES act.

FEDERAL CARES ACT PROTECTIONS

SPECIAL RULES FOR SOME TENANTS

How do I know if my rental unit is covered by the CARES Act?

Subsidized Housing:

- “Section 8” and “Rural Development” Housing Vouchers
- Section 9 Project-based housing (Public Housing)
- HUD-subsidized senior housing and other HUD subsidized housing
- USDA-subsidized housing
- Tax Credit or “LIHTC” Housing

Private, non-subsidized housing where the landlord has a federally backed mortgage:

- HUD (including FHA) mortgage
- USDA mortgage
- VA (Veteran Affairs) mortgage
- Fannie Mae or Freddie Mac Mortgage

CDC Eviction Moratorium

To protect public health and slow the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) has issued an order that protects some residential tenants who have fall behind on rent from being evicted until 2021.

This moratorium is not automatic and there are steps tenants must take to avoid an eviction.

Temporary halt on some evictions to prevent the spread of COVID-19.

What does the CDC Moratorium stop?

It stops the landlord from taking ANY action to evict a tenant for unpaid rent, including:

- Filing an eviction lawsuit
- Giving the tenant an eviction notice
- Asking the court for a 'writ of eviction'
- Harassing or intimidating a tenant to vacate

Temporary halt on some evictions to prevent the spread of COVID-19.

Who does the CDC Moratorium help?

Tenant, lessee, or resident of residential property who provides a sworn declaration to landlord that the following are true:

1. Used best efforts to obtain all available government assistance for rent or housing
2. Meets income limit
 - \$99,000 or less income; or
 - Received stimulus check; or
 - Not required to report income in 2019
3. Unable to pay rent due to:
 - Substantial loss of household income; or
 - Extraordinary medical expenses
4. Uses best efforts to pay partial rent (as close to full as circumstances permit)
5. Would likely become homeless or forced to live in close quarters in shared housing if evicted (including stay in hotel/motel)

Temporary halt on some evictions to prevent the spread of COVID-19.

What must tenants do?

- Continue to pay as much rent as you can.
- Apply for government rental and housing assistance. Document your efforts!
 - To see if you qualify for state rental assistance, visit <https://www.dhcd.virginia.gov/rmrp>
- Sign a declaration under penalty of perjury and give it to your landlord.
 - Here is the CDC Declaration: <https://bit.ly/CDCdeclaration>
 - Keep a signed copy for your records.
 - Each adult on the lease should complete their own declaration.
 - Contact a lawyer for advice before signing if you have any questions about the declaration: 1-833-NoEvict or 1-866-LEGLAID

Temporary halt on some evictions to prevent the spread of COVID-19.

What are the limits?

- Landlords can still evict for non-rent violations
- It does not forgive rent – tenants still owe rent as required in the lease agreement.
- It will not help tenants get back in their home if they have already been evicted.
- There are criminal penalties (for both tenants and landlords) for violating the rules of the CDC order.

Temporary halt on some evictions to prevent the spread of COVID-19.

OTHER TENANT PROTECTIONS & RESOURCES

Get a 60-day continuance of your eviction case.

If you lost income due to COVID-19 and were unable to pay your rent, you may be able to delay your eviction case.

Cap on late fees.

As of April 22, 2020, landlords are limited in the amount of late fees they can charge tenants.

Virginia Rent and Mortgage Relief Program.

If you lost income due to COVID-19 and are behind on rent, you may qualify for financial assistance.

Staying after your lease ends.



DELAY YOUR EVICTION CASE FOR 60 DAYS

SPECIAL RULE FOR TENANTS WITH LOSS OF INCOME

Tenants being sued for nonpayment of rent may ask the court for a 60-day continuance.

- If you lost income due to the COVID-19 pandemic and are being sued for an eviction for non-payment of rent, you may qualify for a 60-day continuance of your eviction case.
- This option is available until 90 days after the end of the state of COVID emergency.
- A continuance does not make your eviction case go away; it simply gives you more time to catch up on rent.



Show up to your first court date.

Call the court clerk to confirm the date and time.



Bring written proof that you lost income.

- A paystub showing zero dollars in earnings
- A furlough notification letters from your employer
- An “essential employee status letter” stating that you were “nonessential”
- A signed affidavit by you stating that you lost wages due to the COVID emergency

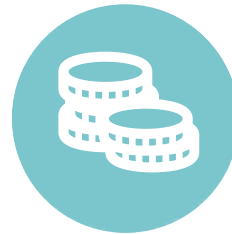


Ask the judge for a 60-day continuance.

Late fees are limited to 10% of the monthly rent amount OR the amount of past due rent you owe, whichever is less.

CAP ON LATE FEES

NEW LAW EFFECTIVE APRIL 22, 2020



Starting April 22, 2020, Virginia law prohibits all landlords from charging excessive late fees.



The landlord can only collect late fees if your lease agreement says that you must pay a late fee when your rent is late.

Financial assistance is available for renters and homeowners who have experienced financial hardship due to the COVID-19 pandemic with up to six (6) months payments of emergency mortgage, rental and utility housing assistance to prevent homelessness.

EMERGENCY HOUSING ASSISTANCE PROGRAM

FINANCIAL ASSISTANCE FOR RENTERS AND HOMEOWNERS

Eligibility Criteria

- Households who have lost income on or after March 1, 2020 directly related to:
 - Stay-at-home orders (job loss/reduced hours);
 - being sick or being the sole at-home caregiver for someone sick with COVID-19;
 - required to stay home with their natural/adopted/legal guardian young children due to mandatory daycare and/ or school closures; or
 - other documentable reasons.
- Eligible households combined annual gross income cannot exceed 80% of the HUD established median income
- Applicants cannot have received assistance from another Federal, State or Local agency to pay mortgage/rent or utilities due to COVID-19.

Residents of Prince William and the cities of Manassas and Manassas Park can apply through the Prince William County Office of Housing and Community Development.

EMERGENCY HOUSING ASSISTANCE PROGRAM

FINANCIAL ASSISTANCE FOR RENTERS AND HOMEOWNERS

Ways to submit an application:

Option 1 (preferred) - To Apply for the Emergency Housing Assistance Program electronically you must click on the link

<https://portal.neighborlysoftware.com/princewilliamcountyva/Participant>

Option 2 - If you choose to download the application please submit through EHAProgram@pwcgov.org.

[EHAP Application - English](#)

[EHAP APPLICATION - SPANISH](#)

Option 3 - If you are unable to submit an application electronically or wish to be provided with an application you may call 703-792-7538 to receive an application or be provided with assistance in completing the application process.

STAYING AFTER YOUR LEASE ENDS

WHAT TO DO IF YOU CANNOT FIND HOUSING AT THE END OF YOUR LEASE TERM



You and your landlord can agree to extend your lease until after a date it is scheduled to end. Make sure to get any agreement to extend your lease in writing!



If your landlord agrees to let you stay but does not give you a new written lease, the terms of the expired lease apply. Your landlord can charge you a different amount if he gives you 30 days notice.



If you remain in your rental home after your lease expired without the agreement of your landlord, the landlord must go through the court process to evict you.



If your landlord does not say anything about letting you stay but continues to accept rent “without reservation”, you may have the right to remain.

REPAIRS AND MAINTENANCE DURING COVID-19



Your landlord has an ongoing duty to provide you with a safe and healthy place to live.

- Your landlord has the right to enter your home to make emergency repairs, even without your consent. An emergency is anything that can cause you immediate harm if not fixed, such as a gas leak.
- You have the right to refuse entry to your landlord for non-emergency maintenance IF your refusal is reasonable.

TWO REMEDIES FOR GETTING REPAIRS

IF YOUR LANDLORD IS REFUSING TO FIX A HEALTH AND SAFETY ISSUE

Repair & Deduct



If your landlord has not started repairs within 14 days of you giving notice, you can hire a certified contractor to do the repairs and deduct the cost from rent.

Tenant's Assertion



If your landlord refuses to do repairs within a reasonable period of time, you can pay rent into escrow with the court and ask a judge to mandate the repairs.

REPAIR & DEDUCT

A TENANT'S RIGHT TO USE A CONTRACTOR WHEN THE LANDLORD FAILS TO CONDUCT REPAIRS

To deduct cost of repairs from rent, tenant must:

1. Give the landlord written notice of the condition that is a fire hazard or serious threat to life, health, or safety of the residents;
2. Wait 14 days for landlord to complete or take major steps toward making the repair (shorter if harm is immediate);
3. If landlord has not completed or started repairs within 14 days, tenant can go to a third-party licensed contractor to complete the repairs;
4. Tenant must give the landlord an itemized statement of charges and receipts for the repair;
5. And then tenant can deduct the cost of the repair from the next month's rent. Deductions cannot exceed one month's rent or \$1,500, whichever is less. **The tenant can deduct the value of the repair even if the repair was donated or paid for by a third party on behalf of the tenant.**



Examples of "Health and safety" Defects

- Exposed electrical wires
- Broken stairs
- No hot or cold running water
- Rodents & pests
- Backed up sewage
- Smell of gas
- Lack of heat

TENANT'S ASSERTION

A TENANT'S REMEDY THROUGH THE COURT TO REQUIRE THE LANDLORD TO MAKE REPAIRS



To get court ordered repairs, tenant must:

1. Be current in rent and stay current;
2. Give written notice to the landlord of the need for repairs;
3. Wait a reasonable period of time for landlord to complete repairs;
4. If repairs are not made after a reasonable period of time, take the written notice and next months rent to General District Court and file a 'Tenant's Assertion (or rent escrow case). Tenant can ask the court to:
 - End the lease agreement
 - Order the landlord to make the repairs
 - Distribute escrowed money back to tenant or deduct money from rent amount due

“Reasonable” period of time depends on the issue.

For example, raw sewage, like an overflowing toilet, should be fixed immediately. Broken stairs should be fixed within a couple of weeks.

The background features abstract geometric shapes in shades of blue and orange. On the left, a solid blue vertical bar is partially visible. On the right, there are overlapping translucent shapes in various shades of blue and orange, creating a dynamic, layered effect. The text is centered in the white space between these elements.

***2020 Special Session: Housing and
Eviction Policy Update***

Special Session Update: Housing and Eviction Bills Passed by the House

HB 5115 (Price): Halts evictions until federal rent relief funds can be distributed to those affected by COVID-19, protects housing security for individuals and families negatively impacted by COVID-19

Passed House: 55-40

Passed Senate with amendment on 9/25 (35-0) but Senate agreed to reconsider the vote, awaiting finalized Senate vote

HB 5064 (Price): Provides rent payment plan opportunities for tenants negatively impacted by COVID-19, bill has a sunset clause of July 1, 2021

Passed House: 55-41

Passed Senate with substitute on 9/25 (19-17) but Senate agreed to reconsider the vote, awaiting finalized Senate vote

HB 5106 (Cole): Protects the credit of tenants negatively impacted by COVID-19

Provides that a landlord shall not take any adverse action against a tenant or applicant for tenancy based on any adverse item related to payment history or an eviction for nonpayment of rent that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency declared by the Governor related to the COVID-19 pandemic.

Passed House: 54-44

Passed Senate with amendments: 20-16

Special Session Update: Senate Housing and Eviction Legislation Highlight

SB 5051 (Hashmi): Temporary prohibition of landlord termination of rental agreements or actions to obtain possession of a dwelling unit under certain circumstances

Proposed eviction moratorium until after April 30, 2021

Pursuant to this legislation, landlords could still evict tenants in response to “a criminal or willful act that is not remediable and that poses a threat health and safety” or those who absolutely refuse to seek rental assistance

The bill would require landlords to inform tenants in writing about the state’s rent-relief program and how to seek help

Reported from Senate General Laws and Technology: 9-5, left in Senate Finance and Appropriations

Senate has moved efforts to address housing and eviction issues through the budget via budget language and amendments

Special Session Update: House COVID-19 Relief Housing and Evictions Funding Commitments

The House Appropriations Committee only considered budget amendments directly related to the parameters of Special Session with one of the priorities including housing and eviction issues during COVID-19.

Funding Commitments:

DHCD – Emergency Housing for People Experiencing Homelessness - \$8,828,998

DHCD – Mortgage and Rental Assistance - \$50,000,000

DHCD – Emergency Housing for People Experiencing Homelessness (\$8.8 mil covered March-now)- \$3,000,000

For Senate funding commitments, view the overview of the SFAC Amendments to the Governor's Proposed Amendments to 2020-2022 Biennial Budget ([Presentation](#)) and amendments to Senate Bill 5015 (as Introduced) at www.sfc.virginia.gov.

Special Session Update: House COVID-19 Relief Housing and Evictions Budget Language

Evictions Moratorium Budget Language:

HAC staff worked with stakeholders on language to improve the original submission

Updated language recognizes the current order from the CDC installing a national moratorium for evictions

Outlines Virginia's policy towards evictions should the CDC order no longer be in effect, which relies on the creation of payment plans and application to the Rent and Mortgage Relief

Program prior to any evictions or related action taking place

Expands the usage of additional Housing Trust Fund dollars to extend Rent and Mortgage Relief program after the expiration of the CRF (CARES Act funding)

Note: The House and Senate budget bills were rolled out late last week and as the House and Senate debate their budgets and move them through their respective houses, there is a lot yet to be worked out regarding housing and eviction policy as the budgets inevitably go into conference.

QUESTIONS?

Thank You

Virginia Poverty Law Center

Eviction Legal Helpline: 1-833-No-Evict

<https://vplc.org/learn/covid-19-civil-legal-response-in-virginia/>

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Statewide Legal Aid

1-866-LEGL-AID
valegalaid.org

Legal Aid Justice Center

Falls Church Office
6066 Leesburg Pike, Suite 520
Falls Church, VA 22041
Phone: (703) 778-3450
Fax: (703) 778-3454

Louisa Rich

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