

Frequently Asked Lease/Rent Questions for Floridians Facing Economic Hardship Because of COVID 19

As a result of the COVID-19 pandemic, millions of Floridians are now unemployed and facing financial uncertainty. The Attorney General has put together this list of resources available to assist Floridians in these tough times.

Nothing contained herein should be construed as legal advice or establishing a lawyer-client relationship. The information below is intended to provide general, summary information for use by Floridians. Please consult with a lawyer if you have legal questions about your specific situation. An attorney can provide the legal advice which our office is not at liberty to provide to private individuals. If you need help finding an attorney, or low-cost legal aid, The Florida Bar offers a Lawyer Referral Service toll-free at (800) 342-8011 or online at www.floridabar.org. We will periodically update these frequently asked questions to provide Floridians with as much information as we can.

Rent, Rental Agreements, Residential Landlord Tenant Relationships

We have received inquiries regarding rental issues, including issues related to missed rent payments, renewing expiring or expired leases, and evictions. If you are having issues with your landlord with respect to your rental property, your first call should be to your landlord to tell them about your situation and attempt to work out a resolution. If that fails, the following answers and links to resources may provide you with additional information:

State Resources

Q. Has the State taken any action with respect to protecting renters?

A. Yes. On April 2, 2020, Governor DeSantis issued an Executive Order, 20-94, that provided a moratorium on evictions on residences. Subsequent Executive Orders 20-121, 20-137, 20-159, 20-180, and 20-211 extended the eviction moratorium for Floridians adversely affected by the COVID-19 emergency through September 30, 2020. The eviction moratorium in the Executive Orders referenced above expired effective October 1, 2020. The Florida Supreme Court has also entered several orders that affect evictions as to residences.

Q. What do the Governor's Executive Orders do?

A. The April 2, 2020 Executive Order, 20-94, tolled any statute providing for a foreclosure or eviction cause of action under Florida law for 45 days from the date of the Order including any extension. A copy of Executive Order, 20-94, can be found [here](#). Executive Orders 20-121, 20-137, 20-159, 20-180, and 20-211 extended the foreclosure and eviction moratorium through September 30, 2020, expiring on October 1, 2020. A copy of Executive Order, 20-121, can be found [here](#). A copy of Executive Order, 20-137, can be found [here](#). A copy of Executive Order 20-159 can be found [here](#). A copy of Executive Order 20-180 can be found [here](#). A copy of Executive Order 20-211 can be found [here](#). Executive Order 20-180 also amended the previous Orders, limiting the foreclosure and eviction moratoriums to the suspension of the final action at the conclusion of a foreclosure or eviction proceeding when those proceedings arise from non-payment by a Floridian due to the COVID-19 emergency. Under Executive Order 20-180 and the most recent 20-211, this means that a new foreclosure or eviction action may be filed and both new filings and pending cases may proceed in the court with hearings and other proceedings, but the final sales or eviction was suspended through September 30, 2020. Please note that as of October 1, 2020, these foreclosure and eviction moratoriums have expired.

Q. What does the Florida Supreme Court’s Order do?

A. Through multiple orders the Florida Supreme Court suspended the requirement that Clerks of Court issue writs of possession “forthwith” and limited many court proceedings. Both will likely affect the timing and timeline for any foreclosure. A copy of the latest Florida Supreme Court Order can be found [here](#). Please consult a lawyer as to what effect the Supreme Court’s Orders may have in your situation.

Q. My lease is expiring. Can my landlord increase my rent?

A. Generally, yes, but if you have concerns you should consult with an attorney. An extreme increase in rental price, particularly in a short-term rental, during the Covid-19 State of Emergency declared by Governor DeSantis may be a violation of price gouging protections in place during the state of emergency. A copy of that Executive Order can be found [here](#). The declaration triggered Florida’s price gouging statute, Florida Statute § 501.160. The price gouging law compares the reported price during the state of emergency to the average price charged over the 30-day period prior to the declared state of emergency. If there is a “gross disparity” between the prior price and the current charge, it could be considered price gouging.

However, every case must be evaluated on its own merits as rental terms differ and other factors may apply. It is important to note that the statute specifically excludes price increases in rent that are approved by a government agency or are attributable to additional costs incurred in connection with the rental of a dwelling unit or to regional, national or international market trends. If you suspect price gouging, obtain as much information as possible (documents preferred). Report this information to the Attorney General's Price Gouging Hotline at 1-866-966-7226. You may also report violations on the Attorney General's No Scam phone app or online at MyFloridaLegal.com or mail documents to the following address:

Office of the Attorney General
The Capitol, PL-01
Tallahassee, FL 32399-1050

Federal Resources

Q. Has the Federal government provided any relief to renters?

A. Yes. On March 27, 2020, President Trump signed the CARES Act into law. Under the CARES Act, Floridians, like all Americans, received certain limited relief with respect to landlord-tenant relationships.

Q. What kind of relief is provided for renters under the CARES Act?

A. For renters living in "covered dwellings," the CARES Act provides a temporary moratorium on evictions as well as late fees for nonpayment of rent or other charges for a period of 120 days starting on March 27, 2020. Further, landlords would not be allowed to issue a notice to vacate until after this temporary moratorium and they would not be allowed to require a tenant to actually vacate the unit until 30 days after the notice is given. The relief provided by the CARES Act only applies to evictions for nonpayment of rent, not for other causes. Renters should also be advised that although they may be protected from eviction proceedings temporarily under this law, the law does not treat nonpayment of rent during this period as forgiven and these unpaid amounts will accrue during this period even if fees are not assessed.

Eviction Moratoriums

The Centers for Disease Control and Prevention (CDC) recently issued an Order effective April 1, 2021 through June 30, 2021, which extends and modifies prior

Eviction Moratorium Orders issued to prevent the spread of Covid-19. The CDC Order can be reviewed [here](#).

Q. Who is covered by the CDC Order?

A. covered person means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

- (1) The individual has used best efforts to obtain all available government assistance for rent or housing;
- (2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than \$99,000 in annual income for calendar year 2021 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an economic Impact Payment (stimulus check);
- (3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a layoff, or extraordinary out-of-pocket medical expenses;
- (4) The individual is 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; and
- (5) Eviction would likely render the individual homeless or force the individual to move into and live in close quarters in a new congregate or shared living setting, because the individual has no other available housing options.

Q. How do I protect my rights under the CDC Order?

A. To qualify as a covered person eligible for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “covered persons” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed.

Tenants, lessees, or residents of a residential property may use any written document in place of the declaration form if it includes the required information as in the form, is signed, and includes a perjury statement.

Tenants, lessees, or residents of a residential property can use a form translated into other languages.

A signed declaration submitted under previous CDC orders remains valid notwithstanding the issuance of this extended and modified Order, and covered persons do not need to submit a new declaration under this Order.

The CDC created a standardized Declaration Form that can be downloaded [here](#).

Q. Do I still owe the rent amount?

A. This Order is a temporary eviction moratorium to prevent the further spread of Covid-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any obligation that the individual may have under a tenancy, lease, or similar contract.

Q. Can the Landlord or owner ask the Court to evict for other reasons?

A. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including the non-payment or late payment of fees, penalties or interest).

Q. Can you be evicted for having Covid-19?

A. Individuals who are confirmed to have, who have been exposed to, or who might have Covid-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

Q. What kind of assistance is available for eligible homeowners under the CARES Act and Federal Agency regulations?

A. The most important feature is that the foreclosure and eviction moratorium in effect from March 18, 2020 has been extended through June 30, 2021 for

borrowers with loans backed by FHFA, Fannie Mae, Freddie Mac, FHA, USDA and VA. This includes the initiation and continuation of new foreclosures as well as evictions for real estate owned properties acquired through foreclosure or deed-in-lieu of foreclosure transactions. The CARES act also provided the right to request and receive forbearance on mortgage payments for up to 6 months, with the option to extend for an additional 6 months (up to a maximum of one year). Those forbearance periods as well as enrollment periods have also been extended. For borrowers who have a mortgage backed by FHA, USDA or VA the forbearance enrollment period is extended through June 30, 2021, and eligible borrowers can request a total of 18 months forbearance. Borrowers who have a mortgage backed by FHFA (Freddie Mac or Fannie Mae) and who were enrolled as of February 28, 2021, may request a three months forbearance extension.

Q. Is there currently an eviction moratorium on properties securing FHA loans?

A. Yes. In reference to properties securing FHA Loans the current Mortgagee letter issued on February 16, 2021 by the U.S. Department of Housing and Urban development (HUD) extends the moratorium on foreclosure and eviction through June 30, 2021. The HUD Mortgagee letter can be reviewed [here](#) and states in part:

FHA-insured Single-Family Mortgages, excluding vacant or abandoned Properties, are subject to an extension to the moratorium on foreclosure through June 30, 2021. The moratorium applies to the initiation of foreclosures and to foreclosures in process.

Evictions of persons from Properties securing FHA-insured Single-Family Mortgages, excluding actions to evict occupants of legally vacant or abandoned Properties, are also suspended through June 30, 2021.

Deadlines for the first legal action and Reasonable Diligence Time Frame are extended to 180 days from the date of expiration of this moratorium for FHA insured Single Family Mortgages, except for FHA-insured Mortgages secured by vacant or abandoned Properties.

Q. Is there currently a foreclosure and eviction moratorium on properties securing Fannie Mae and Freddie Mac loans?

A. Yes. According to the February 25, 2021 Federal Housing Finance Agency (FHFA) announcement Fannie Mae and Freddie Mac (the Enterprises) are extending

the moratoriums on single-family foreclosures and real estate owned (REO) evictions until June 30, 2021. The FHFA announcement can be reviewed [here](#).

Q. Is there currently a foreclosure and eviction moratorium on properties securing U.S. Department of Agriculture (USDA) Rural Development loans?

A. Yes. The USDA February 2021 announcement extends the moratorium on single family foreclosures and evictions through June 30, 2021. The announcement can be reviewed [here](#).

Q. Is there currently a VA foreclosure and eviction moratorium on properties securing VA loans?

A. The Department of Veterans Affairs (VA) will extend the existing moratorium on evictions and foreclosures, as well as extend VA loan forbearance requests to June 30, because of COVID-19. The announcement reflecting the VA moratorium on evictions and foreclosures can be reviewed [here](#).

Q. If I seek forbearance, does that forgive part of my mortgage?

A. No. Forbearance is not a forgiveness of debt. It gives a borrower time to work out a loan modification or repayment plan with their servicer that requires borrowers to resume making payments at the end of the forbearance period and establishes a payment plan for all missed payments. Homeowners should ask their servicers about the types of modifications and plans available and seek out HUD housing counseling assistance as appropriate. Borrowers with loans backed by Fannie Mae or Freddie Mac may be eligible to defer missed payments during a forbearance plan if the borrower is able to return to making their normal monthly payments and meets other eligibility requirements. If eligible, the forbearance available for homeowners impacted by COVID-19 allows borrowers to defer missed payments to the back of the loan period or when the home is sold, refinanced, or the mortgage and note matures. Fannie Mae and Freddie Mac have issued the following bulletins with information on eligibility for a payment deferral: [Fannie Mae Bulletin](#) and [Freddie Mac Bulletin](#). The deadline and criteria for borrowers to request a covid-19 forbearance from mortgage servicers depends on which entity backs their respective mortgage. The current announced deadlines to request a mortgage forbearance are as follows:

- FHA – Deadline June 30, 2021
- VA – Deadline June 30, 2021
- USDA – Deadline June 30, 2021

- Fannie Mae – February 28, 2021
- Freddie Mac – February 28, 2021

Verify your attorney is in good standing and has no disciplinary actions against them. If you cannot afford an attorney, you may be eligible for low-cost or pro bono assistance through a legal aid office in your area. To locate an office in your area, visit www.floridalawhelp.org/find-legal-help. Finally, you may also seek legal help through Florida Legal Services [here](#) or at www.floridalegal.org. Information on finding affordable housing and rentals in Florida is available from the Florida Housing Finance Corporation and can be reviewed [here](#).