AAGW APARTMENT ASSOCIATION OF GREATER WICHITA

Legislative News

CDC Extends Nationwide Eviction Moratorium With Modifications

On March 29, the U.S. Centers for Disease Control and Prevention (CDC) extended its federal eviction moratorium order through June 30, 2021. The announcement included some modifications, while the core elements of the order remain in effect. The extension takes effect April 1, and updated FAQs detailing the modifications to the order are expected in the days ahead. Be on the lookout for additional outreach to National Apartment Association (NAA) affiliates and members; we will update our member guidance accordingly.

The existing eviction order applies to virtually all rental housing providers and prohibits actions to remove covered renters from their housing during the moratorium period, so long as the renter provides the required documentation to their housing provider. The order, however, does not prevent evictions based on the lawful reasons articulated in the order other than nonpayment of rent. It also specifies that the order does not relieve renters of their obligation to pay rent, and housing providers may charge late fees or other penalties due to a renter's failure to pay rent on a timely basis. Finally, the order protects renters who provide a declaration under penalty of perjury to their housing provider (an example form is contained in the order).

The order's extension contains a few concerning elements of note. First, while the order does not prohibit evictions for engaging in criminal activity while on the leased premises, covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offenses). Further, the order states that individuals who have, who might have been exposed to or who might have COVID-19 should not be evicted on the grounds that they pose a health or safety threat to other residents. Finally, the order notes that covered persons may use any written document in place of the declaration form if it includes the required information in the form or use a form translated into other languages.

In conjunction with the CDC's announcement, the White House also released a fact sheet detailing all of the Administration's efforts across agencies to provide housing support. As part of these efforts, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC) will step up enforcement efforts against housing providers who violate the CDC order. According to their joint press release:

> "Evicting tenants in violation of the CDC, state, or local moratoria, or evicting or threatening to evict them *without apprising them of their legal rights* under such moratoria, may violate prohibitions against deceptive and unfair practices, including under the Fair Debt Collection Practices Act and the Federal Trade Commission Act." [emphasis added]

This stated policy directly conflicts with guidance in the current FAQs. We will continue conversations with the Administration about this development and will update you as we learn more.

NAA has remained strongly opposed to and aggressively advocated against the CDC's overreaching and destructive order. Last September, NAA participated in one of the first cases challenging the CDC and their authority, and we continue to pursue all legal options. We are encouraged by the growing legal precedent – declaring the order unlawful – that district courts in Texas, Tennessee and Ohio have built over the foundation of NAA's lawsuit, and we are actively participating as plaintiffs in a number of these cases.

NAA is also urging our members to contact their members of Congress to ask them to support ending the CDC's federal eviction moratorium. Sharing your story with Congress can help shed light on what the rental housing industry is facing during this moratorium. Take action today!

Impacts of Eviction Moratorium

Wichita Metro Area

22.7% of renter households in Kansas are behind on their rent payments.
(As of December 21, 2020)

For every 1% of renters not paying rent during a 6-month eviction moratorium	FINANCIAL IMPACT OF MORATORIUM	For every 22.7% of renters not paying rent during a 12-month eviction moratorium
$4.4M	DECREASED Apartment Rental Income	$199.8M
$85.2M	DECREASED Property Value	$3.9B
$1.1M	DECREASED Property Tax Revenue	$49.9M

An eviction moratorium interrupts the revenue needed to pay employee salaries, mortgages, property taxes, maintenance and utilities. If 1% of apartments do not pay rent due to a 6-month eviction moratorium, rental income would decrease by $4.4M, ultimately leading to an $1.1M loss in property tax revenue. If 22.7% of apartments do not pay rent during a one-year eviction moratorium, those figures substantially increase to $199.8M and $49.9M, respectively.

Kansas apartments and their residents **contribute $19.7 billion** to the metro economy every year and **support 104,900 jobs.**

Sources

1. Sources in this report include U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates, U.S. Census Bureau American Housing Survey
2. Census 2020 Household Pulse Survey Week 19, Housing Table 1b
3. Lincoln Institute of Land Policy "50-State Property Tax Comparison Study for Taxes Paid in 2019"
4. weareapartments.org
5. Elliott D. Pollack & Company research conducted for the Arizona Multihousing Association

Notes

- Estimated property value decreases utilize the rate of return on a 30-year Treasury Bill.
- Property tax loss estimates based on apartment property tax rates for each city reported in the Lincoln Institute of Land Policy "50-State Property Tax Comparison Study for Taxes Paid in 2019," Appendix Table 5A . The estimates of revenue loss reflect assessed value fully following market value changes.
- Property tax loss estimates assume assessment at full market value.
- Property tax revenue losses are based on tax rates for the city of Wichita.
- Apartments are defined as located in properties with 5 or more units.

For more information on impact model methodology and assumptions, please contact Paula Munger @ pmunger@naahq.org.

NAA
NATIONAL APARTMENT ASSOCIATION

WICHITA WORKFORCE CENTERS PROVIDING IN-PERSON HELP FOR RENT ASSISTANCE APPLICATIONS *By: Chris Maslan, KFDI*

Beginning Monday, March 8th, The Wichita Workforce Center and the City of Wichita have partnered to offer in-person appointment to assist people applying for the Wichita Emergency Rental Assistance Program (WERAP).

WERAP can help those who have been struggling to pay rent or utilities due to the pandemic. Individuals meeting certain requirements could qualify for up to a year of emergency assistance, depending upon need and availability of funds.

WERAP application assistance appointments will be available Monday through Thursday from 8am to 5pm, and Fridays from 9am to 12pm. You can schedule an appointment by calling (316) 771-6800, or online at www.workforce-ks.com/book-an-appointment/.

Additionally on March 8th, the Butler and Sumner Workforce locations will be reopening for limited in-person services. They are accepting appointments for resume and job search assistance, pre-enrollment assessments, and skills training program eligibility and enrollments. You can schedule an appointment for these services through the phone number or link above.

Lastly, walk-ins for public computer access, printing, copying, or faxing will be available at all locations during Workforce's designated *Tech Time*, on Tuesdays and Thursdays from 12pm to 4pm. Computers in the career center will be available on a limited basis and by appointment only. In-person workshops and group classes will remain suspended.

Right to Counsel Should Not Be a Housing Stability Solution

As the country struggles with the ongoing economic impacts of COVID-19, policymakers continue to grapple with how to address the millions of renters struggling to keep up with rent payments. This has led to calls from renter advocates to continue both temporary pandemic eviction restrictions, such as eviction moratoriums, and implement other housing policies intended to create housing stability for low-income renters. Most of these are band-aids that fail to address the economic instability of low-to moderate-income renters, who are most likely to face eviction due to nonpayment of rent.

One of the policy solutions being suggested is right to counsel for renters in eviction court. Since New York City became the first jurisdiction in the nation to pass legislation guaranteeing legal representation for renters facing eviction in 2017, several other jurisdictions have followed suit in either passing their own laws or funding pilot programs. Some of these programs have been funded using coronavirus relief funds from the federal government. So far in 2021, legislatures in Connecticut, Minnesota, Maryland, Nebraska, South Carolina and Washington have introduced their own right to counsel legislation.

Right to counsel programs typically serve renters making 200 percent of the Federal Poverty Level (FPL) and below. Households served are overwhelmingly rent burdened or severely rent burdened, meaning more than 30 percent, and for some more than 50 percent, of household income is used for rental housing costs. Proponents of right to counsel argue that the large imbalance in rates of representation between housing providers and renters in court places renters at a severe disadvantage. The main question appears to be one of fairness, and that addressing the unfair imbalance in representation rates will lead to significant amounts of renters prevailing in court and staying in their homes.

Right to Counsel Should Not Be a Housing Stability Solution *Continued*

However, this is far from the case. It turns out right to counsel changes little of the ultimate outcome for low-income renters. According to multiple pilot program progress reports analyzing case outcomes, some renters with representation avoid court ordered evictions and achieve pay and stay settlement agreements that allow them to remain in their apartment. However, most households are still forced to move as part of these agreements, with legal representation sometimes able to achieve positive financial or credit outcomes for renters and negotiate more time for them to move out.

That last point is crucial. Most renters are still forced to leave their unit regardless of access to counsel, which means significant time and money searching, finding and paying for the associated costs of moving to a new apartment. Given these households earn an annual income of 200 percent of FPL and below, this is likely to represent a significant financial burden. There is also no guarantee the new rental rate will be more affordable than the previous one, meaning a similar or increased chance of defaulting a second time. Furthermore, having to engage in the eviction process at all comes at the expense of wages, as renters are forced to forgo working hours to attend hearings or pretrial mediation conferences and lose out on income. Wouldn't these funds be better spent on rental assistance?

Alternatives to Representation

Instead of working to create a universal right to counsel for renters, policymakers should focus on solutions that target the root cause of the problem. Public intervention strategies that direct funding toward a combination of emergency rental assistance and tenant-based housing subsidies have a greater overall benefit on housing outcomes.

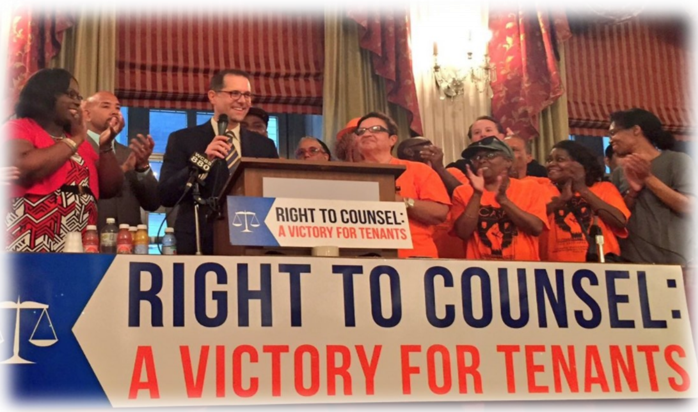
Statistics and cost metrics from the 2017 Sargent Shriver Civil Counsel Act Evaluation show how earlier public intervention would be more effective than implementing right to counsel programs. Unfortunately, the more recent 2020 report does not include program costs. The act itself was passed in California in 2009 and provides grant funding for legal representation and improved court services to low-income parties for various legal issues, including housing. The evaluation looked at housing programs from six counties in the state that received housing program grants from October 2011 through October 2015, including Kern, Los Angeles, Sacramento, San Diego, Santa Barbara and Yolo. Nearly all cases analyzed involved a demand for past due rent or holdover rent, and forfeiture of the lease agreement.

Looking specifically at San Diego as an example, the pilot program costs in Fiscal Year 2014 totaled $1.62 million. During that year, the program provided representation for 1,280 eviction cases, resulting in a cost per case of $1,325. The report also estimates that it cost $2,850 for a household to secure a new rental unit, which occurred in three quarters of cases in the Shriver Report's randomized case assignment outcome assessment. That equates to about $2.74 million in additional costs borne exclusively by renters who still had to move as part of settlement agreements.

As an alternative to funding legal representation, the city could have funded emergency rental assistance for every household in FY14 to cover their rental debt before the matter ever made it to eviction court. This would have cost about $1.2 million and avoided renters having to pay the cost to move into a new unit and protects housing providers and renters' constitutional right to access the court system through the established process to adjudicate landlord and tenant disputes. Connecting renters to assistance resources before initial default notices would be an efficient way to address rental arrearages and prevent displacement.

Right to Counsel Should Not Be a Housing Stability Solution *Continued*

Using the same data, one can roughly estimate how much it would cost per household to supply a renter with a tenant-based housing voucher. Voucher programs require households to put only 30 percent of their income toward rent, subsidizing the remaining cost. The 30 percent income benchmark is the standard used by HUD to determine if the cost of housing is affordable to a renter. Using the above income and rental statistics, the cost of subsidizing the median household served by Shriver housing programs in San Diego for one year would be $6,351.60. That is much more expensive than either providing legal representation or rental assistance, but it would create durable housing stability for renters by reducing their housing costs and significantly reducing the likelihood of future homelessness. This in turn would drastically reduce homeless shelter costs, a downstream benefit often attributed to right to counsel programs.



Tenant Rights Groups claim these moves as a victory, but is it really?

The proponents of right to counsel claim that universal access to legal representation should be the implementation goal of policymakers to ensure housing stability of low-income renters. However, as the rough calculations above show, the cost to provide emergency rental assistance is similar and avoids forcing renters to come up with upfront costs for new housing arrangements, while tenant-based subsidies cost more but create durable housing stability. Policymakers should avoid the band-aid approach of funding legal representation for renters in eviction court and instead pursue a blend of funding for tenant-based housing subsidies and emergency rental assistance. These policies in tandem would mitigate the consequences of eviction for a greater proportion of renters and bolster housing stability in communities across the country.

THANK YOU TO OUR NEWSLETTER SPONSORS: