

## Relief Options for Tenants Who are Unable to Pay Rent

### What should I do if I cannot pay my rent during the public health emergency?

Some landlords may be willing to work with tenants prior to filing eviction during this public health emergency. If you get a notice from your landlord, it is always a good idea to try to talk to them and see if they are willing to work something out. This avoids the trouble of having to go to court. If you make an agreement with the landlord on how to catch up on past due rent, get it in writing signed by you and the landlord.

### Where can I get help with rental assistance information?

- <http://www.cabq.gov/family/services/health-social-services>
- <http://www.cabq.gov/family/documents/epp-eligibility-requirements-sheet-3.pdf>
- Call 311 for information

### Does the federal CARES Act provide any protections for tenants if they cannot pay their rent?

**YES.**

Under the CARES Act, the landlord is barred from filing for eviction for nonpayment of rent or other charges and from charging you late fees IF you rent a property

- (1) with a federally backed mortgage, or
- (2) your landlord participates in a federally subsidized or affordable housing program (including public housing, tenant-based section 8, project-based section 8, other HUD multifamily programs, supportive housing, continuum of care, USDA rural housing, and the US Treasury's Low Income Housing Tax Credit (LIHTC) program.

Under the CARES Act protections for tenants, a landlord cannot evict for non-payment of rent or other charges for 120 days beginning on March 27, 2020, the effective date of the CARES Act, and ending on July 25, 2020. In addition, the landlord cannot assess any late fees or other penalties for nonpayment during that time. After the 120-day period is up (on July 26, 2020), the landlord cannot require you, the tenant, to vacate for nonpayment until providing you with a new thirty-day notice to vacate.

These protections are in addition to the moratorium on evictions for non-payment of rent entered by the New Mexico Supreme Court, for information on the Court's Order go to the COVID-19 information FAQs at: <https://nmcourts.gov/news.aspx> (see below)

To find out if your rental property is covered by a federally backed mortgage and for other information, visit:

- <https://www.fhfa.gov/Homeownersbuyer/MortgageAssistance/Pages/Coronavirus-Assistance-Information.aspx> and

- [https://www.hud.gov/program\\_offices/housing/comp/rpts/mfh/mf\\_f47](https://www.hud.gov/program_offices/housing/comp/rpts/mfh/mf_f47)

If you need help to find out if the property you rent is covered for CARES Act protections, call New Mexico Legal Aid at 505-633-6694.

### **Is there a moratorium on evictions in New Mexico?**

The New Mexico Supreme Court entered an Order suspending evictions for non-payment of rent during the pandemic. Tenants continue to owe the rent. The suspension is temporary. Landlords can still file in court to evict you, and the courts will still hold eviction trials. If a court finds that the tenant owes rent and should be evicted; however, the court is required to temporarily stop the eviction if the court finds that the nonpayment is due to the tenant's "current inability to pay." When the Supreme Court decides to end the suspension, these tenants face eviction.

For information on the Court's Order go to the COVID-19 information FAQs at: <https://nmcourts.gov/news.aspx>

The following things will still take place, even with the N.M. Supreme Court Order:

- The landlord can file a court case seeking to evict a tenant who cannot pay their rent, for whatever reason, or for other reasons unrelated to rent.
- The landlord must give the tenant a three-day notice of non-payment of rent before filing an eviction proceeding if that is the reason for the eviction. The tenant still has 3 days to make up the rent payment – if possible – and avoid eviction.
- If a landlord files for eviction, you will be served with a summons, which could be posted to your front door.
- The tenant **MUST STILL** appear by telephone or in person at the hearing to ask the court to **not** evict them because they are unable to pay the rent. The tenant must provide testimony about their inability to pay the rent.
- **Right now, Bernalillo County Metropolitan Court is asking people to appear telephonically and/or via video conference. YOU MUST CALL IN BEFORE THE START OF THE HEARING SO YOU DO NOT MISS IT. During this public health emergency, you do not need pre-approval from a judge to appear telephonically.**
- If you need to reschedule your hearing, you should call the court **PRIOR** to your hearing (as soon as possible if you know you will not be able to attend a scheduled hearing) and ask for a continuance. You can find a "motion for continuance" on the Court's website, or you can call the Self-Help Center (505-841-9817) to get a blank form.

- You can find which judge your hearing has been assigned to on the summons.
- **BE PREPARED TO EXPLAIN TO THE JUDGE WHY YOU ARE UNABLE TO PAY THE RENT. PROVIDE INFORMATION – AND IF YOU HAVE IT DOCUMENTS – THAT EXPLAIN THAT YOU WERE LAID OFF, HAVE A FAMILY MEMBER THAT LOST JOB, THAT YOU ARE SELF-ISOLATING, OR OTHER REASON YOU ARE UNABLE TO PAY.**

Metropolitan Court is starting a **Landlord Tenant Settlement Program** to help landlords and tenants negotiate a repayment plan where the tenant is unable to pay rent. You must participate in this program if referred to it by the Court.

- Call New Mexico Legal Aid at 505-633-6694 for help.
- You can also call the court's **coronavirus hotline** prior to your hearing time for additional information: (505) 841-9810. Metro Court's self-help center may also have some additional resources: 505-841-9817.