

**Consumer Financial Protection Initiative
September 2020 – Updated for CDC Moratorium**

**TENANT’S RIGHTS:
What Tenants Need to Know and Do
to Protect Themselves if Unable to Pay Rent.**

What should I do if I cannot pay my rent during the state of emergency?

Some landlords may be willing to work with tenants prior to filing for eviction during this public health emergency. Before you get a notice from the landlord, when you know you will have trouble paying the rent, it is always a good idea to talk to the landlord and see if they are willing to work something out. This avoids the trouble of both of you having to go to court.

Look for rental assistance help as soon as possible: You can find out where to get support at:
<http://www.cabq.gov/family/services/homeless-services/eviction-prevention>

Contact your landlord and ask to pay what you owe in rent over time by proposing a payment plan. Let the landlord know if you are waiting for unemployment benefits or other funds that you will be receiving.

Is there a moratorium on evictions in New Mexico? Yes, for tenants who are unable to pay their rent. **But, if the landlord files to evict you, the tenant must appear at a court hearing to make sure the court protects you.**

What does the moratorium on evictions mean?

In March, the New Mexico Supreme Court entered an [Order suspending evictions](#) only for non-payment of rent during the pandemic, if the tenant is currently unable to pay rent. It **does not require** that the tenant’s inability to pay rent is because of COVID.

In September, the Center for Disease Control and Prevention (CDC) issued an Order halting evictions through December 31, 2020 for non-payment of rent. The CDC requires a declaration under penalty of perjury and requires the tenants meet certain qualifying conditions.

Which applies and what should I do?

Until the NM Court rules otherwise, the protections of the NM Moratorium or the CDC Moratorium may apply to you, depending on your particular circumstances.

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In order to take necessary steps to protect yourself, under either order:

- 1) Follow the procedures of the CDC Order and give your landlord the Declaration Signed Under Penalty of Perjury.
GO TO: <https://www.newmexicolegalaid.org/node/249/evictions-halted-order-centers-disease-control> to find the form to use.

The CDC Declaration requires:

- You must apply for all government rental assistance available;
- Each adult listed on the lease must complete a separate Declaration and provide it to the landlord;
- You must satisfy all conditions listed in the Declaration under penalty of perjury. **READ IT CAREFULLY.**

New Mexico Legal Aid also provides legal information about what to do should the landlord try to evict you. Keep a copy of the form you give to the landlord.

- 2) If your landlord files to evict you and you have a court hearing scheduled, **GO TO THE HEARING** (telephonically) and tell the Court you gave the CDC Declaration to the landlord and that you are also protected by the NM Moratorium because you cannot currently pay rent. Send a copy of the CDC form to the Judge before the hearing.

Under either situation, if the landlord files in court, the tenant **MUST** appear at the hearing to ask the court to **not** evict them because they are unable to pay the rent. Tell the Court if you gave the landlord the CDC Declaration. The tenant must provide testimony about their inability to currently pay the rent.

Metropolitan Court in Albuquerque is asking people to **appear by phone**—you must call in before the start of the hearing so you do not miss it.

Both Moratorium apply to non-payment of rent for tenants in subsidized housing, private housing or a mobile home park where renting a space.

The Tenant will still owe the rent when the moratorium end. Landlords will evict these tenants unless the tenant and landlord have come to an agreement to allow more time to pay back rent.

If you work out an agreement with the landlord, make sure it is in writing to protect yourself. **Make sure you get a receipt for any rent paid.**

This information does not constitute legal advice. Please consult an attorney for legal advice specific to your circumstances.

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WHAT STEPS SHOULD A TENANT TAKE TO PROTECT THEMSELVES FROM EVICTION?

- Tenants must act—doing nothing could mean you will be evicted and lose your home.
- Apply for rental assistance as soon as possible.
- You don't have to immediately move out; you can go to court to contest the eviction.
- **Seek legal help when you know you may face eviction.**
- The moratorium on evictions for non-payment may protect you, but if your landlord files in court, you **MUST** go to the court hearing. If you do not go to the hearing, you will mostly likely be evicted.

KNOW YOUR RIGHTS:

- Your landlord **cannot** evict without a court order
- It is illegal for a landlord to evict a tenant without a court order by doing any of the following:
 - Changing locks
 - Disconnecting electricity, water or gas
 - Using force
 - Threatening to do these things