

# The CDC's Federal Eviction Moratorium

Updated August 31, 2021

On August 26, 2021, the Supreme Court [blocked enforcement](#) of the new order temporarily imposing an eviction moratorium issued by the Centers for Disease Control and Prevention (CDC). The Court [determined](#) that the plaintiffs were “virtually certain to succeed on the merits of their argument that the CDC has exceeded its authority.” The Supreme Court did not rule on the merits of the moratorium, and lower courts may still issue decisions on its legality even as evictions are allowed to proceed. (See [this Legal Sidebar](#) for discussion of the Supreme Court ruling.)

The CDC originally imposed a nationwide, temporary federal moratorium on residential evictions for nonpayment of rent on [September 4, 2020 \(“initial order”\)](#). The CDC extended the initial order several times, until it expired on July 31, 2021. On August 3, 2021, the CDC issued a new [order](#) implementing another eviction moratorium [through October 3, 2021 \(“new order”\)](#). The new order was applicable only in [counties with heightened rates of COVID-19](#) community transmission. Both CDC orders were intended to prevent the spread of COVID-19 by preventing homelessness and overcrowded housing conditions resulting from eviction. The CDC's actions, which followed an [Executive Order](#) directing it to consider such measures, are unprecedented, both in terms of the breadth of the agency's use of [this public health authority](#) and its reach into what is [traditionally](#) state and local governance of landlord-tenant law.

## Overview

The CDC's initial order took effect on September 4, 2020, shortly after the expiration of a narrower set of eviction protections established by [the CARES Act \(§4024\)](#). The initial order had an expiration date of [December 31, 2020](#). Prior to its expiration, the order was extended legislatively [through January 31, 2021](#). The CDC administratively extended the initial order three times: [through March 31](#), [June 30](#), and [July 31, 2021](#). The third extension [stated](#) that “absent an unexpected change in the trajectory of the pandemic, CDC does not expect to extend the Order further.” The CDC issued the new order on August 3, 2021, [citing a surge of cases spurred by the Delta variant](#).

The new order applies to all renters who attest to meeting the order's [income and other eligibility criteria](#) and live in counties experiencing substantial or high rates of community transmission of COVID-19, [as determined by the CDC](#). Eligibility criteria include having made all efforts to obtain governmental rental assistance and being at risk of homelessness or overcrowded housing conditions upon eviction. Renters must assert their right to protection under the order by [submitting a signed declaration](#) of eligibility to

Congressional Research Service

<https://crsreports.congress.gov>

IN11673

their landlords. The CDC moratorium [does not supersede](#) more protective [state and local government eviction protections](#).

The [moratorium](#) prohibits evictions only for nonpayment of rent and related fees, not other causes, and it does not prohibit landlords from charging fees or penalties, nor does it forgive unpaid rent amounts. The CDC order provides [penalties for landlords who violate the order](#) and a [penalty of perjury](#) for tenants who falsely declare eligibility.

## Status of the CDC Orders

### Legal Status

Numerous legal challenges to the initial order were filed, resulting in conflicting court rulings regarding the CDC's authority to issue the order, as discussed in [this Legal Sidebar](#).

In one challenge to the initial order, the D.C. District Court held that the initial moratorium exceeded the CDC's statutory authority, but stayed its order from taking effect pending appeal. On June 29, 2021, the Supreme Court [denied](#) the plaintiffs' request to lift the stay, allowing the initial order to remain in force. In the only written opinion—a concurrence no other justice joined—Justice Kavanaugh indicated that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.”

The President urged Congress to extend the moratorium, but Congress [did not pass](#) legislation before its expiration. The CDC's new order, relying on the [same statutory authority](#) as the initial order, stated that the continued moratorium was necessary only in counties with substantial or high transmission rates of COVID-19 due to the highly transmissible Delta variant. After the CDC issued the new order, plaintiffs in the D.C. District Court case filed an emergency application to vacate the stay. Both the [district court](#) and the [D.C. Circuit](#) denied the plaintiffs' application. On August 26, 2021, the Supreme Court granted the application, resulting in the CDC's new order being no longer legally enforceable while the case is pending appeal (absent an intervening federal court decision to the contrary). As a result, states and localities are allowed to proceed with evictions subject to state and local policies.

### Effectiveness

Evictions continued despite the moratoriums, in part because [some courts](#) held the moratoriums unlawful and unenforceable or [determined](#) that certain tenants did not meet the order's eligibility requirements, and because landlords cited grounds for eviction other than nonpayment of rent, such as [lease violations](#) or [lease expiration](#). Nevertheless, some [researchers have found](#) that moratoriums at the federal, state, and local level significantly reduced evictions. As a result, landlords are [owed significant back rent](#), and tenants who owe rent face displacement when moratoriums end.

The federal government has appropriated funds to assist renters. The [CARES Act provided funding](#) that [some states and localities](#) used to fund rental assistance. The [FY2021 Consolidated Appropriations Act](#) (December 2020) included \$25 billion for states and localities to administer a new [Emergency Rental Assistance \(ERA\) program](#) (Division N; §501). The [American Rescue Plan Act](#) (ARPA; March 2021) provided an additional \$21.55 billion for ERA (§3201). The CDC cited the need for more time to deploy rental assistance as part of the justification for the initial order's [third](#) extension and for the [new order](#). According to [Treasury Department data](#), only \$4.7 billion of the initial \$25 billion appropriation had been spent on household rent, utilities, and arrears by the end of July.

Following the Supreme Court's second ruling, the Treasury Secretary and two other agency heads [encouraged](#) state and local officials to adopt their own eviction moratoriums and to use federal assistance to aid renters facing displacement.

## Author Information

Maggie McCarty  
Specialist in Housing Policy

David H. Carpenter  
Legislative Attorney

Libby Perl  
Specialist in Housing Policy

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.