

## **Federal Response**

9/2/2020

### **What's the latest with regard to evictions?**

As described by [The Texas Tribune](#), “the federal government announced a nationwide eviction moratorium Tuesday (September 1) that is designed to protect renters from losing their homes until the end of the year. The order could keep millions of Texans from being evicted.”

“[The new order](#), issued by the Centers for Disease Control and Prevention and set to be published Friday, says that COVID-19 is a ‘historic threat to public health’ and that eviction moratoriums can facilitate quarantining.

‘I want to make it unmistakably clear that I’m protecting people from evictions,’ President Donald Trump said in a White House press release.”

According to the text of the order:

“There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.”

The order provides “rent deferral”, rather than forgiveness, until December 31. Similar to the [payroll tax deferral](#), the eviction order defers payment until the end of the year, at which time all past due amounts come due. An Individual will qualify if he or she:

1. has used best efforts to obtain all available government assistance for rent or housing;
2. either: (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to the CARES Act;
3. 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 lay-off, or extraordinary out-of-pocket medical expenses;
4. 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. would likely be rendered homeless by eviction – or be forced 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.

### **What's the latest with students returning to college?**

According to [online media](#), members of the President’s Coronavirus Task Force held a call with governors yesterday (September 1). On the call, Dr. Deborah Birx, the Coronavirus Response Coordinator for the White House Coronavirus Task Force, and Vice-President Mike Pence, asked governors to tell their college presidents to keep virus-infected students on campus to avoid major outbreaks.

“We know that what happened across the South [earlier this year] was primarily driven by 18-to-25 year olds, across the South, with asymptomatic spread,” said Dr. Birx. “Sending these individuals back home in their asymptomatic state to spread the virus in their home town or among their vulnerable households could really recreate what we experienced over the June time frame in the South. So I think every university president should have a plan for not only testing but caring for their students that need to isolate.”

Vice President Pence said, “In general, we want to encourage, even when you have test positivity on campuses, we want to encourage universities to have students remain on or near campus and minimize the potential exposure to the larger community. We really believe – and I spoke to a university president just the other day – in suspending classes for a few weeks, have people study in their rooms, and... that kind of isolation... for the overall health and well-being [of everyone].”

Yesterday, [according to a local news outlet](#), Texas Tech confirmed 239 total active cases of COVID-19 in students. Similarly, Texas State [reported](#) 24 new cases last Friday (August 28). Most colleges and universities post data on their websites. For example, UT has a COVID-19 [dashboard](#).

Texas A&M’s [dashboard](#) shows 290 cases for the week ending August 23, with a positivity rate of 11.83 percent for August. (Editor’s note: Seeing those numbers, I’ll stick to being an oft-maligned “two-percenter.”)

9/22/2020

### **What action did the Texas Supreme Court recently take with regard to evictions?**

Last Thursday (September 17), the Texas Supreme Court issued an [administrative order](#) clarifying certain aspects of the federal nationwide eviction moratorium.

As reported [on September 2](#), the Centers for Disease Control and Prevention (CDC) issued an [order](#) to temporarily halt residential evictions to prevent the further spread of COVID-19. Effective September 4, 2020, through December 31, 2020, the CDC order provides “rent deferral” for qualifying individuals. As reported by [The Texas Tribune](#), the federal moratorium left several unanswered questions.

The Texas Supreme Court’s administrative order addresses three primary issues relating to the federal moratorium. The order:

- requires that, in an action for eviction to recover possession of residential property under Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure, the petition and citation include certain information to ensure that tenants are notified about the federal eviction moratorium;
- includes certain information to ensure that tenants are notified about the federal eviction moratorium;
- clarifies that the federal moratorium could prevent an eviction where the eviction has been granted, but the order to have the constable remove a person (the writ of possession) has not yet been issued; and
- provides a procedure for landlords to contest a tenant's declaration that he or she is qualified for rent deferral under the federal moratorium.

1/26/2021

### **What steps has the President taken with respect to the pandemic?**

On January 21, President Biden released a 200-page [National Strategy for the COVID-19 Response and Pandemic Preparedness](#).

Relevant to cities, the plan places a strong emphasis on cooperation with, and support for, local government. Some examples include plans to:

- build channels of communication with state and local leaders (p. 33);
- make state and local-level data available to manage the pandemic and provide support to mayors and governors deciding on COVID-19 interventions (p. 30);
- enlist EMS and firefighters to support vaccination efforts (p. 44); and
- create as many venues as needed for people to be vaccinated (p. 9).

### **What pandemic-related executive actions has the President initiated?**

Last week, President Biden signed [executive orders](#), proclamations, and memoranda related to various subjects. At least 15 are related to the pandemic. Arguably some of the most important for cities are:

-[Executive order coordinating a government-wide COVID-19 response](#): Creates the position of COVID-19 response coordinator, who will advise the president and oversee the distribution of vaccines, tests, and other supplies.

-[Executive order strengthening public health supply chain](#): Requests that the heads of various federal departments assess the nationwide availability of personal protective equipment and other resources needed to distribute COVID-19 tests and coronavirus vaccines, as well as to develop a strategy to manufacture supplies for future pandemics.

-[Executive order establishing the COVID-19 Health Equity Task Force](#): Creates the COVID-19 Health Equity Task Force, which will provide recommendations on the allocation of resources and funding in light of “disparities in COVID-19 outcomes by race, ethnicity, and other factors.”

-[Executive order promoting workplace safety amid the pandemic](#): Directs the Department of Labor to revise and issue new guidance for employers to promote the health and safety of their workers, including mask-wearing in the workplace.

-[Executive order establishing a COVID-19 pandemic testing board](#): Creates the pandemic testing board to coordinate national efforts to “promote COVID-19 diagnostic, screening and surveillance testing” and to increase the distribution of free tests to those without comprehensive health insurance.

-[Executive order guaranteeing unemployment insurance for workers who refuse work due to COVID-19](#): Requests that the Department of Labor consider clarifying its rules to establish that workers “have a federally guaranteed right to refuse employment that will jeopardize their health,” and that workers who do so will still qualify for unemployment insurance.