

The Eviction Moratorium, New Eviction Cases and Pre-COVID Lawsuits

Last updated June 22; [Haz clic aquí para Español](#)

On May 7th Governor Cuomo announced that he was extending New York's eviction moratorium from June 20th to August 20th. But instead of continuing the eviction moratorium, the Governor's Executive Order ended it, by allowing landlords to file new eviction cases and permitting marshal's evictions from June 20th onwards. However, on June 18th the courts made it clear that their universal eviction moratorium is still in place, indefinitely, but at least until July 7.

Here's a breakdown of what the Governor's order and court order means for the eviction moratorium, new eviction case filings, pre-COVID cases and the current court closure:

EVICTION MORATORIUM: Prohibiting Tenants from being Physically Evicted from their Homes

CURRENTLY:

- The courts have kept the current moratorium in effect for all tenants (commercial and residential) across NY. No evictions for anyone, for any reason.
- Also, in NYC, the Department of Investigations (DOI) ordered the marshals not to evict people indefinitely.
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot evict tenants before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

AFTER JULY 6 (IF THE MORATORIUM IS LIFTED):

- All the outstanding marshals Notices of Eviction have expired. On existing warrants, Marshals will have to serve Notices of Eviction again and, in NYC, the DOI would have to allow marshals to start evictions.
 - In pre-COVID non-payment cases, landlords will have to go through an additional step of filing a motion to get court approval to move forward with the eviction. The tenant will be able to defend themselves against the landlord's motion based on COVID-19 financial hardship.
- Until August 21, marshals can't evict tenants who have been financially impacted by COVID-19, for non-payment of rent. How will this be implemented? This is what we know:
 - Certainly, if a tenant is facing an eviction warrant, they can file in court to stop execution of the warrant based on COVID-19 financial hardship. This means the tenant would have to prove they shouldn't be evicted because of the Governor's executive order.
 - Also, tenants in eviction cases can raise COVID-19 financial hardship as a defense and if the court decides the tenant proved their financial hardship, the landlord would not be able to evict the tenant before 8/21.

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- In NYC, if a tenant does not respond to their non payment case, the landlord will have to submit an affidavit proving the tenant has not been financially impacted by COVID-19. This only applies in non-payment cases. Landlords will not have to do this to get a judgment in a holdover eviction case.
- Potentially, there could also be requirements placed on marshals/sheriffs to ensure that executing a warrant doesn't violate the Governors executive order. In NYC, the Department of Investigation did issue guidance to city marshals about following the current court rules so they may create additional requirements for city marshals.
- Marshals/sheriffs will be able to evict tenants in holdover cases (cases for anything other than nonpayment of rent).
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot evict tenants before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

NEW LANDLORD LAWSUITS

CURRENTLY (UNTIL JULY 6):

- Starting from June 22nd, the courts are letting landlords file new eviction cases. The landlords must include:
 - A document from their attorney saying they reviewed all the relevant COVID-19 orders and directives, and the landlord has a right to file the case.
 - A notice to the tenant telling them they may have more time to respond and how to get legal services/more information.

AFTER JULY 6 :

- Landlords can continue to file new cases and the courts may issue new rules about whether they can file in person.
- The court will issue guidance on or before July 6 about whether the cases filed after June 22nd will remain suspended or move forward.
- Until August 21, landlords can't file non-payment cases for anyone who has been financially impacted by COVID-19. How will this be enforced?
 - Statewide, when filing new eviction cases landlords must include:

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- Landlords with attorneys must file their cases by mail or electronically (the court however hasn't set up an e-filing system yet). Landlords without attorneys can file in person.
- Once a new eviction case is filed, tenants will be asked to answer by phone. However there will be no court dates until after July 6, whether a tenant responds or not.
- If a tenant does not respond, the landlord will not get a default judgment (meaning a decision in favor of the landlord because the tenant didn't respond).
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot file new eviction cases before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

- A document from their attorney saying they reviewed all the relevant COVID-19 orders and directives, and the landlord has a right to file the case.
- A notice to the tenant telling them they may have more time to respond and how to get legal services/more information.
- Most likely, landlords will sue tenants who they shouldn't sue, and tenants will have to go to court and fight to get their case dismissed by proving they qualify under the Governor's order.
- This has also caused many landlords to harass tenants for their personal financial information so the landlord can file the affidavit they need to bring a non-payment case. Generally, tenants do not have to disclose their personal financial situation to their landlord. **Learn more about how to respond if your landlord asks for your financial information [here](#).**
- Landlords can continue filing holdover cases against tenants with no restrictions.
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot file new eviction cases before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

PHYSICAL OPENING OF THE COURTS AND CONDUCTING COURT CASES

CURRENTLY:

FUTURE:

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- Courts are open to a limited extent - just for people without attorneys to file new cases, including for tenants to file HP cases of all kinds.
- Tenants who are responding to eviction case papers will be given a phone number to call. If a tenant attends court to respond, they will be given a phone number to call.
- If a tenant does not respond, the landlord will not get a default judgment (meaning a decision in favor of the landlord because the tenant didn't respond).
- The courts are not conducting in-person court proceedings.
- Cases that are moving forward virtually are:
 - Emergency repair and harassment cases
 - Illegal lockout cases
 - Pre-COVID eviction cases where both sides have an attorney, BUT only for case conferences to see if the case can settle.
- We do not know when the courts will begin doing in-person court proceedings.
- The courts have talked about setting up rooms for tenants who do not have access to technology, so that they can participate in virtual hearings.
- An electronic case filing system for housing cases is expected to commence later in the summer.
- We do not yet know what will happen in terms of new eviction orders and default judgments after July 6, but the courts have said they will issue new guidance on or before that date.



We're calling on the Governor to issue a REAL extension of the eviction moratorium for ALL tenants and to STOP landlords filing new eviction cases for as long as the crisis lasts. Call Cuomo and the NYS Judges: bit.ly/CalltoKeepCourtsClosed

To learn more and get involved:

www.righttocounselnyc.org or www.housingjusticeforall.org



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