

# CARES Act and Residential Dispossessories

## Who/what is covered?

A landlord's rental property is covered by the Act if:

1. The rent is subsidized;
2. The underlying mortgage is backed by any agency of the federal government;
3. The underlying mortgage has been transferred to any federal agency even if still serviced by the original lender.

Federally backed mortgage loans are those:

1. Made, insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the federal government; or
2. Purchased or securitized by the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae).

## What restrictions are there for dispossessories on covered properties?

For these properties, the landlord:

1. Cannot take any action for non-payment of rent until after the moratorium is lifted (July 25);
2. Cannot charge any additional fee related to the non-payment of rent;
3. Must give a tenant 30 days' notice before an eviction can be filed, and that notice can only be given after the moratorium is lifted.

The moratorium only applies to cases for non-payment of rent -- cases completely separate from rent are not covered by the moratorium. As an example, exceeding an occupancy clause, failing to recertify, not allowing a regularly scheduled inspection, are not covered. **If a landlord has absolutely NO federal ties to a mortgage (i.e. owns the property free and clear) and rent is not subsidized with any Federal money, then the moratorium does not apply.**

The 120 day moratorium ends on July 25, 2020, so the first day a landlord can act (send notice) is on July 27, 2020. Therefore, no cases will be ripe for filing until at least August 24, 2020.

## Miscellaneous

There are three categories of cases:

1. Filed Pre-Judicial Order, up to March 26 = CARES Act has no effect.
2. Filed Post-CARES Act on covered properties (signed on March 27) = obviously covered.
3. Filed Post-CARES Act on all others = CARES Act has no effect.

Burden of proof is on the on landlord to show that moratorium does not apply.

## Sunset

It isn't clear, but most provisions define the "covered period" (a term not found in § 4024) as the period commencing on March 27, 2020 and ending on the first to occur of (A) the termination date of the national emergency concerning the coronavirus disease outbreak declared by the President on March 13, 2020 and (B) December 31, 2020. So we are going with that.