

To: Owners and Management Agents of
Properties under NDHFA oversight

Compliance Memorandum: 20-08

From: Jennifer Henderson, Director
Planning and Housing Development Division

Date: Sept. 4, 2020

Re: CDC Temporarily Halts Evictions

On Sept. 1, 2020, the Centers for Disease Control and Prevention (CDC) issued an [Emergency Public Health Order](#) to temporarily halt most evictions to prevent the further spread of COVID-19. The CDC Order's expected effective date is Sept. 4, 2020, the anticipated date of its publication in the Federal Register. The Order will be effective through Dec. 31, 2020. This memo provides a Summary of the Order. To ensure you are fully abiding by the Order, please take some time to review it in its entirety.

Under the Order, a housing provider (i.e. a landlord, an owner of residential property or another person with a legal right to pursue eviction) shall not evict any covered person (i.e. an eligible tenant) from any residential property during the effective period.

To be protected by the order, an eligible tenant must execute a [Declaration](#), a form is included as an attachment to the Order, under penalty of perjury to the housing provider, certifying that said tenant does not expect to earn more than \$99,000 (or \$198,000 if filing a joint tax return) in 2020 or received a CARES Act stimulus check; has used their best efforts to obtain government assistance for rent or housing; is unable to pay rent due to a substantial loss in income or because of extraordinary out-of-pocket medical expenses; is making their best effort to make partial rent payments; has no other available housing options if evicted; and understands they may need to pay back rent and fees once this eviction moratorium expires.

The Order applies only to tenants unable to make full rent payments and does not prohibit evictions resulting from issues other than nonpayment of rent. Further, it does not require housing providers to forgive payments or preclude the charging or collection of fees, penalties, or interest for failure to make rent and housing payments.

A person violating the Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating the Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law.

The Order states that it is an emergency action and not a rule, and even if it were to be determined to qualify as a rule, it would not require a notice and comment period under the Administrative Procedure Act, as notice and comment would create a delay in implementation, negatively impacting public health.

If you have a tenant who provides a Declaration pursuant to the Order, you may not evict for non-payment of rent through Dec. 31, 2020. We recommend that you retain the Declaration in the tenant's file. Rent may still accrue. It is also important to visit with the tenant to identify if they have applied for the state's [Emergency Rent Bridge \(ERB\)](#). If the tenant was denied assistance through the ERB, we highly recommend working out a payment plan for rent collections.

Questions about this memo can be directed to Jennifer Henderson, Planning and Housing Development Director, at (701) 328-8080 or jhenderson@nd.gov.