

Enact a Broad Eviction Moratorium

A Memorandum To the Transition Team

Background

The federal eviction order issued by the Centers for Disease Control (CDC) extends vital protections to tens of millions of renters at risk of eviction for nonpayment of rent during the global pandemic. In issuing the order, the CDC makes clear the connection between evictions and our nation's ability to contain the coronavirus. The CDC moratorium is a critical moral and public health necessity. However, the order contains a number of provisions that undermine its public health impact. In October the CDC, HUD, and Treasury issued an FAQ that further undermined the strength of the order.

On December 27, 2020, the current administration extended the current CDC moratorium, and it now expires on January 31, 2021. Once the new administration is in place, we have asked them to enact a broader and true eviction moratorium to control the spread of Coronavirus, protect poor tenants, and give families stability through this crisis.

Immediate Executive Action

On day one of his administration, President Biden should issue an executive order that directs the CDC to immediately issue a broad moratorium that extends protections for at least six months.

A moratorium from the administration will help keep families in their homes while providing the newly elected Congress sufficient time to enact a comprehensive relief package that includes emergency rental assistance and other resources to ensure housing stability.

Any new moratorium should contain several improvements to address the many shortcomings of the current eviction order. The Biden-Harris administration should:

- **Create a universal moratorium.** The current order requires tenants to submit a declaration to their landlord before receiving the protections of the order. This means that only those tenants that know about the order are protected, leaving the most vulnerable tenants at risk of eviction. The declarations also offer predatory landlords the opportunity to challenge tenant certifications and defy the order. The new order should cover all tenants without requiring them to “apply” for the protection. If the declaration requirement remains, all landlords should be required to notify their tenants of the order and to attest that they have not received a declaration when filing an eviction action.
- **Apply the order to all stages of the eviction process.** The clarifications in the October 10 FAQ from the CDC were contrary to the plain language of the original order that defines eviction as “any action by a landlord...” to remove the tenant. The FAQ allows landlords to file evictions, but insists evictions should not be executed. Because evictions are not allowed until the moratorium expires, the only purpose for allowing landlords to file eviction

proceedings is to give landlords the power to pressure, scare, or intimidate renters into leaving their homes. A new order should explicitly bar all stages of the eviction process including notice, filing, hearing, judgment, and physical eviction.

- **Extend effect of the order to all eviction processes.** The current order is vague on the order's reach beyond nonpayment evictions. Because the intent of the order is to prevent the spread of Coronavirus, it is essential that individuals and families remain in their homes through the worst of the pandemic. The new order should clarify that it covers all evictions including no fault evictions and evictions at the end of lease term. A narrowly construed exception for serious health and safety violations should be the only exception to the moratorium.
- **Enforce the moratorium.** While the current CDC order purports to impose criminal penalties on landlords who violate the moratorium, there has been no enforcement effort. There is no mechanism for renters to file complaints against landlords who violate the order, and no agency has been tasked with resolution. As a result, the criminal penalties in the order have been ineffective and landlords continue to evict renters in violation of the moratorium without consequence. The Biden-Harris administration should create a hotline number that renters can use to file complaints, and the administration must charge the U.S. Department of Justice and the Consumer Financial Protection Bureau to enforce the CDC order. The process for enforcement must be clear and published on all relevant materials and websites.

For more information, please contact NHLP Director of Government Affairs, Noelle Porter, at nporter@nhlp.org or NLIHC Vice President of Public Policy, Sarah Saadian, at ssaadian@nlihc.org.