© Legal Services of Eastern Mo. Inc.

Legal Services of Eastern Missouri™

Action.Justice.Hope.

CDC Anti-Eviction Order: A Guide for Tenants

Presenter: Terry Lawson, Consumer Attorney

Main Office
(Central West End)
4232 Forest Park Ave.
St. Louis, MO 63108

Family Court Program
105 S. Central Ave.
Ste. 555
Clayton, MO 63105

Hannibal Office
801 Broadway
PO Box 1276
Hannibal, MO 63401

Union Office
20 S. Church St.
Ste. C
Union, MO 63084

© Legal Services of Eastern Mo. Inc.

Legal Services of Eastern Missouri™

Action.Justice.Hope.

See our social media for updates and videos!

See final pages for a SUMMARY and links to RESOURCES

For more COVID-19 help with housing or other issues, go to:
https://lsem.org/covid-19-updates/

Main Office
(Central West End)
4232 Forest Park Ave.
St. Louis, MO 63108

Family Court Program
105 S. Central Ave.
Ste. 555
Clayton, MO 63105

Hannibal Office
801 Broadway
PO Box 1276
Hannibal, MO 63401

Union Office
20 S. Church St.
Ste. C
Union, MO 63084

Centers for Disease Control and Prevention (CDC)



"As the nation's health protection agency, **CDC** saves lives and protects people from health, safety, and security threats."

"COVID-19 presents a historic threat to public health."

CDC Facts: Why Issue the Order?

As of August 24, 2020,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.

Despite these best efforts, COVID-19 continues to spread and **further action is needed.**

Eviction moratoria . . . can be an **effective public health measure** utilized to prevent the spread of communicable disease.

The CDC Order

Subject to the limitations under the 'Applicability' section,
a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action

(From Sept. 4 to Dec. 31, 2020)

shall not evict any covered person from any residential property

("evict or eviction" have a special meaning)

in any State or U.S. territory in which there are documented cases of COVID-19

(All 50 states have COVID Cases!)

that provides a level of public-health protections below the requirements listed in this Order.

(Missouri does not)

The CDC Order – What is “eviction”?

THE ORDER puts a “pause” on some eviction actions.

"Evict" and "Eviction" for CDC ORDER mean any action

by a landlord, owner of a residential property, or other person

with a legal right to pursue eviction or a possessory action,

to remove or cause the removal of a covered person from a residential property.

This does not include foreclosure on a home mortgage.

The CDC Order – A Summary

THE ORDER provides a "pause" on SOME evictions IF:

Covered person has provided a signed Declaration to the right party; and

Eviction action is for ANY other reason besides the FIVE types of "unprotected" evictions

The CDC Order –When Not Effective?

NOT EFFECTIVE against "eviction actions" for:

(1) engaging in criminal activity while on the premises;

(2) threatening the health or safety of other residents;

(3) damaging or posing an immediate and significant risk of damage to property;

(4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or

(5) violating any other contractual obligation, (besides rent obligation).

The CDC Order – A Summary

THE ORDER is effective ONLY for each adult resident mentioned in the lease who provides a signed DECLARATION to:

Landlord (who is landlord on the lease), OR

Property owner (who actually owns the premises), OR

Anyone else who has power to evict / kick out resident (other agents of the landlord or owner).

The CDC Order – A Summary

THE ORDER IS NOT:

Rent relief. Legally charged rent, late fees, etc. will continue.

A "free pass" to violate a lease or other rules of living in premises.

The CDC Declaration – What is it?

LEGAL TIP: A “Declaration” is like an affidavit, but without the need for a notary. It is a statement under penalty of PERJURY.

From the CDC sample:

“This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.”

The CDC Declaration

WARNING!

DO NOT SIGN the CDC Declaration if:

You don’t understand what you are signing; or

You don’t believe all the statements in it are TRUE.

The CDC Declaration

NEED HELP? Not sure if you should use the Declaration?

Legal Services of Eastern Missouri (and many others) can provide advice to clients on when and how to use the CDC Declaration.

Some “online interviews” can guide you through completing the Declaration.

See RESOURCES page at the end of this presentation.

The Declaration's Five Requirements

1. Made "best efforts" to obtain all available government assistance for rent or housing;
2. Meet income requirement;
3. Unable to pay rent or housing payment due to:
    a. income loss, loss of work hours or wages, layoffs, or
    b. extraordinary medical expenses
4. Making "best efforts" to making rent or housing payments, given your circumstances;
5. If evicted, likely would have
    a. no other "available housing" options and
    b. would likely become homeless, move to homeless shelter, live in close quarters with someone else.

Declaration – First Requirement

Made “best efforts” to get govt. rent/housing help

WHAT IT SAYS:

“I have used best efforts to obtain all available government assistance for rent or housing;”

Declaration – First Requirement

Made "best efforts" to get govt. rent or housing help

WHAT IT MEANS:

"best efforts" is unclear. Should mean reasonable attempt, given personal circumstances. But must take steps, exhaust all options.

"all available government assistance" means ANY governmental rental or housing payment benefit available to declarant or any other household member.

HOW TO FIND PROGRAMS:

United Way 211helps.org (See more RESOURCES at end)

Declaration – Second Requirement

Meet the income requirement

WHAT IT SAYS:

"I either expect 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), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;"

Declaration – Second Requirement

Meet the income requirement

WHAT IT MEANS:

You expect this year to have **no 2019 reportable income or** making in 2020 will make **less than $100k** (each if married) or you **got a stimulus check** = YOU QUALIFY!

HOW TO Qualify:

ALMOST ALL Americans would qualify on this requirement.

Declaration – Third Requirement

Unable to pay rent or housing payment

WHAT IT SAYS:

"I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses;"

Declaration – Third Requirement

Unable to pay rent or housing payment

WHAT IT MEANS:

No definitions for substantial loss of income, but any loss that prevents paying rent is likely substantial.

Extraordinary Medical Expenses means “unreimbursed medical expenses likely to exceed 7.5% of (AGI) income.

Declaration – Fourth Requirement

Making “best efforts” to pay rent or housing payments

WHAT IT SAYS:

“I am 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;”

Declaration – Fourth Requirement

Making “best efforts” to pay rent or housing payments

WHAT IT MEANS:

Pay what you can. This depends on your ability to pay. You may pay other bills besides rent, and not violate this rule.

HOW TO PAY:

Always keep proof of payments (check stub, receipt, etc.). If landlord refuses payments, make a record of it. You may want to set refused rent aside for later.

Declaration – Fifth Requirement

If evicted, no other "available housing" options

WHAT IT SAYS:

"If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options."

Declaration – Fifth Requirement

If evicted, no other “available housing” options

WHAT IT MEANS:

No other available housing options exist if tenant is evicted.

"Available housing" means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to you.

Declaration – Fifth Requirement

If evicted, no other "available housing" options

WHAT IT MEANS:

1. No other available housing options exist if tenant is evicted. AND
2. As a result, tenant would likely:
    a. become homeless; or
    b. live in a homeless shelter; or
    c. live "close quarters" with others (ex. sleeping on someone's couch).

DO YOU QUALIFY? If you have sought housing but can't find any available to you, then you probably meet this requirement.

Declaration – completing the form

Where to find the CDC Declaration Form:

1. Legal Services of Eastern MO version (fillable PDF) is here: https://lsem.org/wp-content/uploads/2020/09/Declaration-CDC-fillable-.pdf
2. The CDC's official version of the Order and sample Declaration is here: federalregister.gov/d/2020-19654
3. Many other sources online…

Tip: Eliminate any confusion – choose a form with premises address and declarant's (the signer's) printed name (like ours does).

Declaration – completing the form

What are “Online Interviews” and why you might use one

Can “guide” you through completing the form.

But these tools don’t give you legal advice.

You must decide the answers.

Like any computer program, beware of “GIGO” (Garbage In, Garbage Out).

Declaration – completing the form

Online Interview CDC Declarations – Examples:

1. Law Help Interactive: https://lawhelpinteractive.org/Interview/GenerateInterview/7653/engine

2. MassAccess (Suffolk Litigation Lab): https://massaccess.suffolklitlab.org/housing/

3. Kentucky Equal Justice Center: https://community.lawyer/cl/kyequaljustice/cdc-eviction-declaration

“Providing” the Declaration

The Order says:

“to invoke the CDC's order these persons must provide

an executed copy of the Declaration form (or a similar declaration

under penalty of perjury)

to their landlord, owner of the residential property where they live, or

other person who has a right to have them evicted or removed from

where they live.

Each adult listed on the lease, rental agreement, or housing contract

should likewise complete and provide a declaration.”

“Providing” the Declaration

1. Declaration must be **signed** and **dated.**
2. **Tip:** add your printed name and the address of property rented. (Our form has this.)
3. “Provide” a copy to any of these (or as many as you want!):
    a. Landlord (the person or company who made a rental agreement)
    b. Property owner (the person or company who owns the premises)
    c. Any other person who could evict or remove you (example management company or other agent)

“Providing” the Declaration

Don’t forget!

Each adult listed on the lease, rental agreement, or housing contract who wants protection must provide their own completed Declaration.

“Providing” the Declaration

“Provide” is not specific on delivery method.

You can provide the signed copy of your Declaration:

In person, by email, by mail, fax, or any other way.

BUT

Make sure you have proof of delivery of the Declaration to a proper person or company!

Good ways to have proof: hand delivery, email, certified mail, courier (FedEx, UPS).

ONE PAGE SUMMARY

The CDC Order & Declaration

This Order is to protect public health

Does NOT stop rent charges

No Declaration provided – no protection

Should stop ALL improper "eviction actions" taken

Under Oath – do not commit perjury!

All listed adults should provide one

Get legal help if you need it

RESOURCES FOR RENTERS part 1

Legal Services COVID Help Page (see "Housing" section):
https://lsem.org/covid-19-updates/

Legal Services Fillable CDC Declaration Form:
https://lsem.org/wp-content/uploads/2020/09/Declaration-CDC-fillable-.pdf

Online Interview CDC Declarations

Law Help Interactive:
https://lawhelpinteractive.org/Interview/GenerateInterview/7653/engine

MassAccess (Suffolk Litigation Lab):
https://massaccess.suffolklitlab.org/housing/

Kentucky Equal Justice Center:
https://community.lawyer/cl/kyequaljustice/cdc-eviction-declaration

RESOURCES FOR RENTERS Part 2

Legal Services COVID Help Page (see "Housing" section):
https://lsem.org/covid-19-updates/

Legal Services Fillable Declaration Form:
https://lsem.org/wp-content/uploads/2020/09/Declaration-CDC-fillable-.pdf

For Homelessness Prevention:
https://lsem.org/wp-content/uploads/2020/07/Housing-Resource-Flyer-July-2020.pdf

United Way – 211 Cares Act Rental Assistance Application
https://www.211helps.org/cares-apply/

NHLP CDC Order – FAQ for Renters:
https://lsem.org/wp-content/uploads/2020/09/Fact-Sheet-for-Renters.pdf

© Legal Services of Eastern Mo. Inc.

Questions?

Legal Services of Eastern Missouri™
Action.Justice.Hope.

See our COVID-19 Resources at:

https://lsem.org/covid-19-updates/

Main Office
(Central West End)
4232 Forest Park Ave.
St. Louis, MO 63108

Family Court Program
105 S. Central Ave.
Ste. 555
Clayton, MO 63105

Hannibal Office
801 Broadway
PO Box 1276
Hannibal, MO 63401

Union Office
20 S. Church St.
Ste. C
Union, MO 63084