

EVICCTIONS DURING COVID

This guide is intended to provide information about tenant protections under the Federal CARES Act.

DO YOU STILL HAVE TO PAY RENT? YES!

YOU ARE NOT RELIEVED OF YOUR OBLIGATION TO PAY YOUR RENT. The CARES Act protections stop your landlord from evicting you for non-payment of rent for a limited time. If rent isn't paid, you can still be evicted after the protections expire.

YOU MUST DETERMINE IF YOUR RESIDENCE IS COVERED UNDER THE CARES ACT

The CARES Act stops certain landlords from filing evictions and giving notices to vacate for nonpayment of rent until July 25, 2020.

Landlords covered by the CARES Act must:

- Not charge late fees for unpaid rent through July 25, 2020,
- Not give a notice to vacate until July 26, 2020,
- Give at least a 30-day notice to vacate on or after July 26, 2020, and
- Not file an eviction for nonpayment of rent until August 26, 2020.

Important: The CARES Act only applies to properties that participate in certain federal housing programs or that have federally-backed mortgages. Many properties fall within these categories.

Under the CARES Act:

- Landlords can file evictions for reasons other than nonpayment of rent during this time. Things like too many people living in a unit, unauthorized pets, and illegal activity may still result in eviction.
- Does not apply to evictions filed before March 27, 2020.

DOES THE CARES ACT APPLY TO YOUR LANDLORD?

If you live at a multi-family property, like an apartment complex, you can use the following links to search. The links do NOT list every property that might be covered and do NOT cover single family homes (i.e. homes that are rented that are not in apartment buildings) Search all links:

- Texas: [Texas Database](#)
 - This list is not comprehensive for multifamily residences
 - This list does not include properties with 4 or less units or single-family homes
- National: <https://nlihc.org/federal-moratoriums>
 - This list is not comprehensive for multifamily residences
 - This list does not include properties with 4 or less units or single-family homes
- Fannie Mae - <https://www.knowyouroptions.com/rentersresourcefinder>
- Freddie Mac- <https://myhome.freddie.com/renting/lookup.html>

Also, if you are in any of the following programs, your rental unit (and you) are covered:

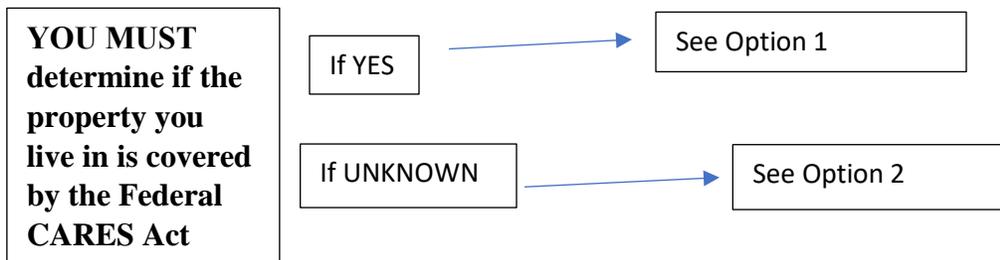
- Public housing
- Section 8 Housing Choice Voucher
- Section 8 project-based housing
- Low-Income Housing Tax Credit (LIHTC)
- Section 202 housing for the elderly
- Section 811 housing for people with disabilities
- Section 236 multifamily rental housing
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing
- HOME Program
- Housing Opportunities for Persons with AIDS (HOPWA)
- McKinney-Vento Act homelessness
- Section 515 Rural Rental Housing
- Sections 514 and 516 Farm Labor Housing
- Section 533 Housing Preservation Grants
- Section 538 multifamily rental housing
- USDA Rural Housing Choice Voucher program.

Also, no matter what type of property you live in, the CARES Act applies to your landlord if there is federally backed mortgage on the property, including:

- Freddie Mac
- Fannie Mae
- HUD
- VA
- FHA (including reverse mortgages)
- US Department of Agriculture
- (USDA Direct, USDA Guaranteed)

Note, tenants can search the links above, but it does not include every property with a federally backed mortgage. Only the landlord has full access to this information.

How to use this guide:



OPTION 1: WHAT TO DO IF YOUR RESIDENCE IS COVERED UNDER THE CARES ACT

IF YOU RECEIVE NOTICE TO VACATE

- Write a letter to your landlord that they cannot evict you due to the CARES Act. Hopefully this will stop them from filing an eviction.
 - A sample letter is here: https://texaslawhelp.org/sites/default/files/covid-19_response_to_attempted_eviction_-_national_gov_t_housing.pdf

If the landlord made a mistake in the case you may have a defense, look here under defenses: <https://texastenant.org/eviction.html>.

IF YOU ARE SERVED WITH AN EVICTION

Step 1: Get proof you are living in a covered residence.

- Print out verification from the internet or have it pulled up on your phone
- If you live in public housing, bring your lease
- If you live in a Low Income Housing Tax Credit (LIHTC) bring your Affordable Housing Addendum. It should be attached to your lease.

Step 2: Prepare a Motion to Dismiss the Case with Order.

The instructions and documents are found on the [HVL CARES Act eviction webpage](#).

Step 3: YOU MUST Attend the court hearing

If you do not attend the hearing the landlord will win: If that happens, see IF YOU LOSE YOUR CASE below.

If going in person: Bring the Motion to Dismiss packet with you with your proof of covered residence.

To appear by phone or video (if allowed) by the court: Call your court listed on the paperwork you were served. Here is a list of the Harris County JP courts: <http://www.jp.hctx.net/> Give them your case number and court date and time. Ask if you can appear by phone or video. You must get permission to appear by phone or video. Follow the instructions the court gives you on how to access the hearing and if it is a video hearing make sure you have the technology to attend.

Step 4: At the hearing

At your court hearing present your evidence that you live in a covered property and cannot be evicted for nonpayment of rent. Follow the instructions on the Motion to Dismiss.

Information on attending a video court hearing can be found here:

<https://texaslawhelp.org/article/virtual-court#toc-3>.

If you win and you still owe rent, talk to your landlord about a payment plan. Call 211 to find agencies offering rental assistance.

OPTION 2: WHAT TO DO IF YOU ARE NOT SURE IF YOUR RESIDENCE IS COVERED AFTER YOU COMPLETED THE ABOVE SEARCH

Unfortunately, some tenants may not be able to easily find out if their landlord has a federal mortgage or participates in qualifying federal programs. Tenants who do not know if the CARES Act protects their housing may need to get this information from their landlord.

IMPORTANT NOTE: If your landlord can prove they are not a residence protected by Federal Cares Act and you have not paid your rent, you will be evicted.

If you cannot pay your rent, please contact an agency to apply for financial rental assistance. You can call 211 to be directed to financial assistance in your area.

If you have lost your job or had a reduction in hours, [apply for unemployment with the TWC](#).

Step 1: You receive notice to vacate

This is the first step in an eviction case. The notice will normally tell you have a certain number of days to leave the apartment or house. If you do not leave or work out an agreement to stay, the landlord will file an eviction in court.

If the landlord made a mistake in the case you may have a defense, look here under defenses: <https://texastenant.org/eviction.html>.

Step 2: Talk to your landlord ASAP because if you are sued, you will have very little time to respond

If you have not paid your rent and you want to try to work out a payment plan, talk to your landlord and take the sample agreement. You want a repayment agreement in writing. You can find a sample agreement on the [HVL CARES Act eviction webpage](#) or here: https://www.texastenant.org/pdf_files/1024_Holdoff_Agreement_Evic.pdf.

If you're struggling to pay rent or can no longer pay, contact your landlord right away to discuss your options. It may help to keep the following in mind for your conversation:

- Be candid about your situation. If you're impacted by COVID-19 or other difficulties, share how your income has been affected.
- Consider mentioning any resources and assistance options you've found.
- Explain how your family would be impacted by a loss of housing.
- Ask about payment arrangements.
- Keep any email and text conversations and make notes of when you spoke in person.

During stressful financial times, your landlord is likely experiencing challenges as well. Try to communicate with them clearly and calmly.

Step 3: You receive eviction papers from court

If your landlord does not want to enter into a repayment plan or you do not make a payment on your payment plan and the landlord will not enter a new one, the landlord will file an eviction. You will be served by a constable and the paperwork will have a court date.

Review the papers carefully and check if it states the property is NOT covered by the CARES Act. Some will have this in the Petition and most will attach this affidavit <http://www.jp.hctx.net/info/CARES%20Act%20Affidavit.pdf>.

Step 4: YOU MUST Attend the court hearing

If you do not attend the hearing the landlord will win: If that happens, see IF YOU LOSE YOUR CASE below.

If you want to appear by **video or phone**, call your court listed on the paperwork you were served. Here is a list of the Harris County JP courts: <http://www.jp.hctx.net/>.

Give them your case number and court date and time. Ask if you can appear by phone or video. You must get permission to appear by phone or video. Follow the instructions the court gives you on how to access the hearing and make sure you have the technology to attend.

Step 5: At the hearing

The landlord has to prove they have the right to file the case now and are not covered by the CARES Act. These are questions you can ask the landlord in court.

- Who is the mortgage servicer and mortgage lender?
- How do you know this?
- Did you verify the mortgage information yourself?
- When did you verify this information?
- Do any of your tenants or any of the rental units participate in (i) a covered housing program like: Section 8 Housing Choice Voucher, Section 202 housing for the elderly, Section 811 housing for people with disabilities, HOME Program, or Housing Opportunities for Persons with AIDS (HOPWA) or any other program subject to VAWA?

If the landlord cannot answer these questions, then ask the judge to dismiss the case, because the landlord has not proven that the mortgage is not a federally backed mortgage or does not participate in a VAWA program.

Information on attending a video court hearing can be found here:

<https://texaslawhelp.org/article/virtual-court#toc-3>.

If you **WIN** and you still owe rent, talk to your landlord about a payment plan. Call 211 to find agencies offering rental assistance.

If you **LOSE**, see the If YOU LOSE YOUR EVICTION CASE below.

IF YOU LOSE YOUR EVICTION CASE

If you lose, the deadline to appeal is five (5) days after the trial. If you wait too long, you cannot appeal. Here is a link to detailed information: <https://texaslawhelp.org/article/appealing-eviction>.

Please Note: If you appeal with a Statement of Inability to Pay Court Costs or an Appeal Bond (“Statement,” see link below), you **MUST** pay one month’s rent (per the judgment) to the Justice Court (JP court) within five days of filing your Statement, and then you must pay rent every month to the county clerk until your appeal is decided. Pay within 5 days of the date it’s due under the lease; if you are late, your landlord can get a Writ of Possession to have you removed from the property.

File the Statement in the JP Court. Statement of Inability to Pay Court Costs or an Appeal Bond: https://texaslawhelp.org/sites/default/files/tx-pr-pay-112_scot_statement_of_inability_to_pay_court_costs.pdf.

IF YOU HAVE QUESTIONS

You can call our Pro Se (self-represented) hotline at 713-228-0734 to ask for legal information.