

The Eviction Moratorium, New Eviction Cases and Pre-COVID Lawsuits

Last updated July 8; [Haz clic aquí para Español](#)

There have been a series of executive orders, court directives, and legislative changes. What does it all mean for evictions, new case filings, court closures and pre-COVID cases? Here is a breakdown! KNOW THIS: the courts made it clear that a universal eviction moratorium is still in place, indefinitely, but at least until August 6.

EVICTIION MORATORIUM: Prohibiting Tenants from being Physically Evicted from their Homes

CURRENTLY:

- The courts have kept the current moratorium in effect for all tenants (commercial and residential) across NY. No evictions for anyone, for any reason.
- Also, in NYC, the Department of Investigations (DOI) ordered the marshals not to evict people indefinitely.
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot evict tenants before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

AFTER AUGUST 5 (IF THE MORATORIUM IS LIFTED):

- All the outstanding marshals Notices of Eviction have expired. On existing warrants, Marshals will have to serve Notices of Eviction again and, in NYC, the DOI would have to allow marshals to start evictions.
- Due to the Safe Harbor Act (aka the Tenant Debt Collection Act), tenants who are sued for rent owed between March 7 until we enter stage 4 of the reopening (will vary county by county and some counties are already in stage 4), can raise COVID-19 financial hardship as a defense. If the court decides the tenant proved their financial hardship, the landlord would not be able to evict but can win a money judgement.
 - Tenants who owe rent from before March 7 or after Phase 4 begins will not be protected from eviction.
- Marshals/sheriffs will be able to evict tenants in holdover cases and in non-payment cases where the tenant can't show COVID-19 financial hardship.
- Tenants who had eviction warrants pre-COVID will be re-served with notices to evict and those evictions can move forward.
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot evict tenants before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

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NEW LANDLORD LAWSUITS

CURRENTLY:

- As of June 22nd, the courts are letting landlords file new eviction cases. The landlords must include a notice to the tenant telling them they may have more time to respond and how to get legal services/more information.
- Landlords with attorneys must file their cases by mail or electronically (the court however hasn't set up an e-filing system yet). Landlords without attorneys can file in person.
- Once a new eviction case is filed, tenants will be asked to answer by phone. However there will be no court dates until after August 5, whether a tenant responds or not.
- If a tenant does not respond, the landlord will not get a default judgment (meaning a decision in favor of the landlord because the tenant didn't respond).
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot file new eviction cases before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

AFTER AUGUST 5:

- Landlords can continue to file new cases and the courts may issue new rules about whether they can file in person.
- Statewide, when filing new eviction cases landlords must include a notice to the tenant telling them they may have more time to respond and how to get legal services/more information.
- There are no restrictions on the eviction cases landlords can file against tenants.
- Due to the Federal CARES Act, if a landlord receives federal funding (including Section 8 vouchers, NYCHA, LIHTC) or if their mortgage received help from Freddie Mac and Fannie May, then they cannot file new eviction cases before August 25. This moratorium is broader than many people know so please look up your building. To find out if your building is covered, go here: <https://nlihc.org/federal-moratoriums>

PHYSICAL OPENING OF THE COURTS AND CONDUCTING COURT CASES

CURRENTLY:

FUTURE:

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- Courts are open to a limited extent - just for people without attorneys to file new cases, including for tenants to file HP cases of all kinds.
- Tenants who are responding to eviction case papers will be given a phone number to call. If a tenant attends court to respond, they will be given a phone number to call.
- If a tenant does not respond, the landlord will not get a default judgment (meaning a decision in favor of the landlord because the tenant didn't respond).
- The courts are not conducting in-person court proceedings (although Brooklyn Housing Court recently announced that it would start scheduling some in person trials starting July 27th)
- Cases that are moving forward virtually are:
 - Emergency repair and harassment cases
 - Illegal lockout cases
 - Pre-COVID eviction cases where both sides have an attorney, BUT only for case conferences to see if the case can settle and for parties to file motions. The court may also issue new announcements about trial dates for pre-COVID eviction cases.
- We do not know when the courts will begin doing in-person court proceedings (although Brooklyn Housing Court recently announced that it would start scheduling some in-person trials starting July 27th)
- The courts have talked about setting up rooms for tenants who do not have access to technology, so that they can participate in virtual hearings.
- An electronic case filing system for housing cases is expected to commence later in the summer.
- We do not yet know what will happen in terms of new eviction orders and default judgments after August 5 but the courts have said they will issue new guidance on or before that date.



We're calling on the Governor to issue a REAL extension of the eviction moratorium for ALL tenants and to STOP landlords filing new eviction cases for as long as the crisis lasts. To learn more and get involved:

www.righttocounselnyc.org or www.housingjusticeforall.org



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