



# ISSUE BRIEF

## Landlord/Tenant Issues & COVID-19

### The debate

Landlord/tenant issues have been a hot topic in the legislature for the past several years. A variety of factors have led to an affordable housing crisis. Housing inventory is low while there is an increasing demand for housing. There are strict regulations on new construction and suburban development. Key legislative reforms have been passed into law, including 2019's [SB 5600](#), further complicating the current situation. Further, many property owners are leaving the rental housing industry due to challenging legal and economic conditions. With the economic uncertainty that came with COVID-19, housing stability became a forefront issue for our state and local governments.

### Background

Due to the government response to COVID-19, many individuals lost their jobs and had to make difficult financial decisions. As of October 2020, the US Census Bureau's PULSE survey reported 132,591 Washingtonians were not caught up on their rent, representing 9% of Washington's renters. This means that a large portion of property owners will not be receiving the rent that is owed to them and will also experience financial hardship. Other than existing law programs, such as the Landlord Mitigation Fund, there has been no government assistance or financial relief, such as property tax relief, for property owners. Mortgages, insurance, utilities, property maintenance, and property taxes continue to be financial burdens on property owners.

For renters, however, Washington state has provided almost absolute protection against evictions, as well as a variety of rental assistance programs.

#### Governor Inslee's Eviction Moratorium

Since April, the governor has instituted a series of eviction moratoria, generally prohibiting a landlord from asking or requiring a tenant to vacate the premises. The most recent eviction moratorium went into effect October 15, 2020 and will be in effect until December 31, 2020. The eviction moratoria, unlike other proclamations, are unable to be altered or discontinued by the legislature—this moratorium has been made and extended exclusively under the governor's authority.

The current [extension](#) to the moratorium makes modifications to the prior moratorium, including:

- Clarifying that tenant behavior which is imminently hazardous to the physical safety of other persons on the premises is included among the existing permissible reasons for seeking to evict a tenant.
- Authorizing landlords and property owners to send advance notices of future rent increases in limited circumstances, as long as the notice clearly provides that the rent increase will not go into effect until after the moratorium expires.
- Establishing clearer guidance on permissible communications between landlords and tenants.
- Requiring that any 60-day notice to vacate if an owner intends to occupy or sell the premises must be in the form of an affidavit signed under penalty of perjury.

The moratorium also directs the governor's staff to continue working with stakeholders over the next 30 days to consider additional amendments to the moratorium to ensure that the moratorium's protections for non-payment of rent apply narrowly to those persons whose ability to pay has been materially impacted, directly or indirectly, by the COVID-19 virus.

Beyond the prohibition on evictions, the proclamations prohibit landlords from collecting on owed rent and fees, or increasing rent. The governor encouraged both landlords and tenants to work together on payment plans.

## Department of Commerce Response

- Eviction Rent Assistance Program (New for COVID-19)

To combat the risks associated with communal living and homelessness during the pandemic, the Department of Commerce instituted a few different programs to assist folks struggling with their rent. The Eviction Rent Assistance Program (ERAP) Grant allocated \$100 million to pay past due, current due and future rent through December 2020. Payments go directly to landlords and can be for up to 80% of total rent due. To be eligible for this program, households' income must be less than 50% area median income in the last 60 days with additional requirements related to previous housing instability in a second screening.

- Grants for Rural County and City Governments (New for COVID-19)

The Department of Commerce committed \$30 million to counties for emergency quarantine, isolation, shelter distancing, hygiene and other COVID-19 response. These funds assisted with providing shelter to avoid congregate housing situations during the pandemic. The last count available was conducted on April 15 and stated this program created 3,060 new beds for this purpose. Commerce has reported they did not request data beyond a "standard accounting paperwork trail" as they tried to disperse funds quickly. This means bed counts expenditures are available, but utilization data is not available.

Further, \$30 million (\$10 million from state Disaster Response Account/\$20 million from CARES act) went to the 29 federally recognized Tribes for economic recovery and other COVID-19 response activities. Uses of this money included emergency response staff, medical facilities and telehealth capabilities, business and job support programs, and social supports such as food and housing.

- Landlord Mitigation Program (Current Law)

In 2018, the legislature created the [landlord mitigation program](#) for reimbursement of costs associated with damages caused by a subsidized tenant. In 2019, the program was expanded to provide financial assistance to tenants facing eviction for nonpayment of rent due to a temporary financial hardship.

## Federal Response

The Center for Disease Control (CDC) also issued a nationwide moratorium on evictions. The federal moratorium is much narrower than Washington state's moratorium and states that a landlord may not evict a tenant due to nonpayment of rent. The federal moratorium does not apply to states with the same or greater levels of legal protection for tenants.

## **Additional information**

- For More information on Emergency Housing Grants (\$30 Million), please see: <https://www.commerce.wa.gov/covid-19-homeless-services/> under COVID-19 Emergency Housing Grants to Counties, including [Grant Guidelines](#) (PDF), [allocations](#) (PDF), and [county plans](#) (web).
- For more information on the Eviction Rent Assistance Program (\$100 Million), please see: <https://www.commerce.wa.gov/serving-communities/homelessness/> program guidelines are available <https://deptofcommerce.app.box.com/s/kb5sds2gv4yc9n931j1e7f1dikvlyub1/file/696873212517>
- For Local Housing Resources, contact your local housing authority. <https://www.awha.org/find-a-housing-authority.html>
- Governor Inslee's Eviction Moratorium: Read the full proclamation [here](#).
- Attorney General's Office Information: <https://www.atg.wa.gov/landlord-tenant>
- Washington Law Help: <https://www.washingtonlawhelp.org/issues/health/coronavirus-covid-19>