



**Evictions are back, but you may qualify for protections if you can't pay rent.**

# **DON'T SELF-EVICT!**

**You can fight your eviction in court!  
Know your tenant rights and reach out to  
Hudson/Catskill Housing Coalition's Tenant  
Hotline to get help!**

**Join with other tenants and get organized!** It is harder for your landlord to harass and illegally evict tenants if you unite with your neighbors!

**We are organizing low-income and public housing tenants in your area. Contact us and get involved!**

### **LEGAL DISCLAIMER**

*The information contained on this document does not constitute legal advice and must not be used as a substitute for the advice of a lawyer qualified to give advice on legal issues pertaining to housing. This information pertains only to tenants living in Greene and Columbia Counties. Many of your rights depend on the type of housing you live in or your type of tenancy. You may be subject to different laws and have different sets of rights than neighbors in your own building. It is important that you learn which rights and responsibilities apply to you.*



## **NY and CDC Eviction Moratorium, New Eviction Cases & Pre-Covid Lawsuits (UPDATED 10/20/2020)**

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!

### **THE UNIVERSAL EVICTION MORATORIUM EXPIRED ON OCTOBER 1, 2020 but the Governor extended protections of *the Tenant Safe Harbor Act* until January 1, 2021**

**KNOW THIS: You Can Fight Eviction for Nonpayment of Rent From March 1st until the end of the NYS COVID-19 State of Emergency (Currently November 2, 2020)**

#### **CURRENTLY:**

- All outstanding marshals Notices of Eviction have expired. On existing warrants, marshals will have to serve Notices of Eviction again
- Due to the Safe Harbor Act (aka the Tenant Debt Collection Act), tenants who are sued for rent owed between March 7 until the end of the NYS COVID-19 State of Emergency ***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 will not be protected from eviction.**
  - **Tenants who owe rent form before March 7 due to COVID-19 may qualify for the Federal CDC Moratorium. You must submit a Declaration of Hardship to be protected. Read more about the CDC Moratorium below and contact HCHC to see if you qualify.**



- Marshals/sheriffs are now 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.
- The CDC Moratorium, which expires December 31, 2020, may be useful to slow certain evictions. **Contact HCHC to see if you should submit a declaration of hardship to your landlord.**

## **RESIDENTIAL EVICTIONS ARE BACK, WITH CERTAIN PROTECTIONS**

### **CURRENTLY:**

- As of October 12, 2020, all eviction proceedings--regardless of when they started--can move forward.
- The Courts expect far lengthier time periods for the scheduling of hearings. There is a backlog of cases. New cases are unlikely to proceed to a hearing before the end of the year.
- Landlords can have warrants of evictions and money judgments issued, but cannot execute evictions (meaning actually remove tenants from premises with a sheriff) if a tenant can prove financial hardship as the reason for nonpayment in court.
- 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 using the courts "e-filing" system (if their court has that set up) or by mail. Landlords without attorneys can file in person.
- Once a new eviction case is filed, tenants will be asked to answer by phone.
- **If a tenant does not respond, the landlord *can* get a default judgement (meaning a decision in favor of the landlord because the tenant didn't respond).**
- Statewide, when filing new eviction cases landlords must include:
  - A document from their attorney saying they reviewed all the relevant COVID-19 orders and directives, and the landlord has a right to file the case.
  - A notice to the tenant telling them they may qualify for an extension of time to respond and how to get legal services/more information.



○ Most likely, landlords will sue tenants who they shouldn't sue. ***Tenants will have to go to court and fight to dismiss their case by proving they have been impacted financially by COVID-19.***

○ Many landlords might harass tenants for personal financial information to file the needed affidavit for a non-payment case. ***Generally, tenants do not have to disclose their personal financial situation to their landlord, except public housing tenants, who must report their income annually, or when circumstances change.***

## **The CDC Eviction Moratorium**

- On September 4, 2020, the CDC issued a moratorium prohibiting evictions of any “covered persons” until December 31st. **In some cases, the CDC moratorium may provide broader protections than the Tenant Safe Harbor Act.**
- Under the CDC, evictions can move forward for reasons such as damaging the premises, threatening the health and safety of others, criminal acts, and violating building codes.
- Depending on your circumstances, **it may be advisable for you to assert protections under the CDC.** To do so, **you need to give your landlord a declaration swearing, under penalty of perjury**, that (1) you have made “best efforts” to apply for government rental assistance; (2) you will make below \$99,000 in 2020, received a stimulus check, or are not required to report your annual income to the IRS; (3) you are unable to pay rent due to “substantial” loss of income, layoffs, loss of hours or wages, or extraordinary medical expenses; (4) that you are using your “best efforts” to pay your landlord as close to the full amount of rent as your circumstances allow; (5) that if you are evicted you would likely become homeless or have to move in close quarters with others because you have no other available housing options.
- **Contact HCHC, the Legal Aid Society, 311, or other legal services organizations to determine whether you should submit this declaration to your landlord.**
- Like the Tenant Safe Harbor Act, Judges will determine whether you qualify for protections under the CDC on a case-by-case basis. How courts will make these determinations is difficult to predict at this time. You will likely need to prove the elements of the declaration of hardship in court.



## Court Openings and Conducting Court Cases

### CURRENTLY:

- Courts are open to a limited extent - just for people without attorneys to file new cases, including for tenants to file **HP cases (a case you file against your landlord for not making all kinds of repairs or providing services)**.
- **The statutory timelines for commencing, filing, and serving any legal action are suspended.**
- Courts are doing some in person trials for cases that started before March 17. **Cases that started before March 17 are required to go through a mandatory settlement conference.**
- Tenants will be given a phone number to call to respond to court papers, instead of going to court in person.
- Cases that are moving forward are:
  - Eviction cases filed before March 17 or on or after October 12.
  - Repair and harassment cases
  - Illegal lockout cases

## What will happen in new or existing eviction cases?

- All cases must have a court date before a judge before anything else can happen (including cases where there is already a warrant of eviction).
- Cases should proceed virtually whenever appropriate.
- **At the court date, the judge must review COVID-19 impact on the tenant and possible relief, refer tenants to legal services organizations and try to resolve the case.**
- After the court date, the court can take all steps that ordinarily happen in a court case, including adjourning the case, scheduling a trial or ordering an eviction. The court must take into account any protections against eviction the tenant has under ***state or federal law***.

## I have an upcoming court date for my eviction case, what should I do?

The courts are scheduling court dates. You can appear virtually instead of in person. For anyone sued on or after March 17, all court dates for eviction cases can now proceed. The court will mail you a notice with your new court date. **We expect cases to be adjourned multiple times during the length of the crisis.**



**You should call the court to confirm if your date has been adjourned. For more information, call your HCHC or 833-503-0447 for assistance.**

### **What if my landlord locks me out illegally?**

Landlord lockouts, including reductions in essential services, are essential matters that are still being addressed by specific designated courts. To find out which court has been designated to handle essential matters in your county, call the Statewide Hotline: 833-503-0447. Once you get connected to your designated courthouse, you can request an application for an order to show cause due to a landlord lockout and/or reduction in essential services. Please call your local Legal Services offices and active tenants' unions/tenant organizations (Hudson/Catskill Housing Coalition) as soon as possible to seek assistance after a lockout.

### **Can my landlord try to vacate my unit?**

All tenants are entitled to due process; only a judge can evict you. **Your landlord cannot evict you without a court order, and you can assert the defense of financial hardship in court to prevent them from getting an order.**

Vacate orders are issued when an apartment is dangerous or illegal, and only city agencies can issue them. Landlords are not legally empowered to directly issue vacate orders. During this crisis, we would expect vacate orders to be rare -- in response to truly dangerous situations or as the result of a fire. Once a vacate order is issued, tenants have the right to access relocation services provided by City agencies. Relocation services remain open during the crisis.

### **How do I get needed repairs from my landlord if courts are closed?**

If you are a tenant outside of NYC, serious code violations and/or serious repair orders are essential matters that are still being addressed by specific designated courts. To find out which court has been designated to handle essential matters in your county, call the Statewide Hotline: 833-503-0447. Once you get connected to your designated courthouse, you can request an application for an order to show cause due to serious code violations and/or serious repair orders. Please call your local Legal Services offices and active tenants unions/tenant organizations (Hudson/Catskill Housing Coalition) as soon as possible to seek assistance if you have serious code violations and/or serious repair orders.



## How can I get more information?

Statewide hotline: 833-503-0447, open 24/7. They will soon be able to answer questions in all languages with interpreters. This is a referral line only -- hotline workers aren't able to answer specific legal questions, but they will be able to direct you to the courts, clerks offices and other resources in your region. If you don't get through the first time, keep trying!

In the Capital District and in Upstate NY, you can call United Tenants of Albany's Housing Hotline, 9am-5pm Monday-Friday at (518) 436-8997, ext. 3 for referrals and guidance about your housing questions. For speakers of languages other than English, interpreting services are available through LanguageLine.

## **KNOW YOUR RIGHTS!** **Landlord Tactics Against Tenants During COVID-19**

### ***What if I get a rent demand letter from my landlord?***

. Landlords often send threatening rent demands that seem like court papers, telling you you have 14 days to pay or leave the apartment. Those are not court papers. **A notice from your landlord isn't an eviction, it's a threat. Only a judge can evict you.** In the meantime, know your rights about evictions and start organizing with HCHC and your fellow tenants!

### ***Why is my landlord asking for my personal financial information?***

In order to sue tenants, landlords will need to show that tenants are not facing financial hardship due to COVID-19.

The result: lots of landlords started to ask their tenants for their personal financial information! Some landlords sent google surveys, others sent complicated forms or emails asking for information. Landlords are doing this so they can sue as many tenants as possible in eviction cases.

### ***Should I respond to my landlord's request for financial information?***



- **Maybe.** Currently, landlords are not supposed to bring non-payment eviction cases against tenants who have financial hardship due to COVID-19. If you have experienced financial hardship from COVID-19, you should tell your landlord, and consider submitting a CDC Declaration of Hardship. **Contact HCHC or other legal services and tenants organizations for advice. BUT**, do not provide your financial documents (like paystips, bank statements, or tax returns). Don't fill out any forms provided by your landlord asking for detailed financial information!
- If you want to notify your landlord that you are facing financial difficulties and it's safe to email or mail a letter, send a short letter like this. **Keep a copy:**

Dear Landlord:

I am protected by the Tenant Safe Harbor Act (L. 2020, c. 127), as modified by Executive Order 202.66 because I am experiencing financial hardship as the result of COVID-19. Under the Governor's Executive Order you cannot start or continue an eviction proceeding for nonpayment of rent against me.

Sincerely,  
Your Name

- **Under the CDC Moratorium, your landlord could be subject to substantial financial and criminal penalties if they try to evict you and qualify for protections. Contact HCHC or other legal services or tenant rights organizations to discuss your circumstances and determine whether you should assert protections under the CDC.**
- If your landlord starts an eviction case against you, your letter will be proof that they knew about your financial hardship and should not have sued you. **(In general, keep a copy of every document you receive from or send to your landlord. The best way to do this is send communications by certified mail.)**

### ***But do I have to give my landlord my financial information?***

- No! You have no legal obligation to provide your landlord with information about your current financial situation. Your landlord is asking so that they can sue you in an eviction case. Your landlord may use financial information you provide in other ways. If





your landlord wants to sue you in an eviction case, they may start a case if you don't respond to their requests for financial information. But if you don't give them financial details, you may be able to use that as a defense in a non-payment case.

- ***For tenants who have Section 8 or live in low-income housing or public housing, you are generally required to submit financial information to your landlord each year (or when your circumstances change). That requirement hasn't changed. But that doesn't mean your landlord can suddenly demand new financial information from you because of COVID-19. You have just as much right not to be harassed for your financial information as all other tenants.***

**NOTE: The temporary weekly federal enhancement to unemployment insurance provided by the CARES Act is not to be included in calculations of income.**

- If you're unsure whether to give your landlord the financial information they request, contact HCHC's Tenant Hotline, call a tenant lawyer at: 718-557-1379 or call 311 and ask for the Tenant Helpline.
- In the Capital District and in Upstate NY, you can call United Tenants of Albany's Housing Hotline, 9am-5pm Monday-Friday at (518) 436-8997, ext. 3 for referrals and guidance about your housing questions. For speakers of languages other than English, interpreting services are available through LanguageLine.

**Reach out to Hudson/Catskill Housing Coalition at:  
[HCHC@hudsoncatskillhousing.org](mailto:HCHC@hudsoncatskillhousing.org), by phone at 518-291-9415  
or message us on Facebook at Hudson/Catskill Housing Coalition  
for more information and resources.**

### ***What if my landlord retaliates against me?***

- There are laws against landlords harassing tenants. Once you refuse to provide the financial information or everything the landlord wants, that should be the end of the discussion. But what if your landlord won't take no for an answer? - Keep written notes about what your landlord says and does, including the date.



- Remember, you are not alone. **Join with your other tenants and get organized!** It is harder for your landlord to harass and illegally evict tenants if you unite with your neighbors. HCHC is organizing public housing and low income tenants in your area, contact us to get involved.

***My landlord is demanding that I pay rent on-line. Do I have to?***

- You don't have to pay rent online or use electronic billing now or at any time, even if it is required in a lease. The law says you have the right to pay rent by money order, personal check, cash, or the online system and the landlord has to accept it.

**For more information visit:**

**Contact us at**

**[HCHC@hudsoncatskillhousing.org](mailto:HCHC@hudsoncatskillhousing.org)**

**This information is on our website as a printable PDF:**

**[www.hudsoncatskillhousing.org](http://www.hudsoncatskillhousing.org)**