

DRAFT Federal Coronavirus Aid, Relief, and Economic Security (“CARES”) Act

Judicial Bench Card for Louisiana Judges and Justices of the Peace for Evictions

Is the reason for eviction nonpayment of rent or fees? §4024(b)(1)

OR

Is the reason for eviction any reason other than nonpayment and the landlord issued a notice to vacate prior to July 25, 2020? (I.e. no waiver of notice in lease and/or subsidy program requires a notice to vacate?) §4024(c)(2)

IF YES TO EITHER

Is it a Covered Dwelling? §4024(a)(1)

1. Does the tenant occupy the property
2. Pursuant to a written lease agreement or other lease “terminable by State Law” (including an oral lease under Louisiana Civ. Code art. 2681)

IF YES

Is it a Covered Property? §4024(a)(1)

1. Does the property “participate in” a subsidy program covered by the Violence Against Women Act (VAWA):
 - Does the property have *any* tenant who uses a Section 8 Housing Choice Voucher (“HCV”) or VASH (HUD-Veterans Affairs) voucher?
 - Does the property contain *any* Section 8 Project-Based Voucher (PBV) units?
 - Does the property contain *any* public housing units?
 - Does the property contain *any* HOME (HOME Investment Partnership) units?
 - Does the property contain *any* HOPWA (Housing Opportunities for Persons with AIDS) units?
 - Does the property have *any* Permanent Supportive Housing (PSH) units, or any tenants that use a PSH or Shelter Plus Care voucher?
 - Does the property have *any* federal Low Income Housing Tax Credit (LIHTC or “tax credit”) units?
 - Does the property receive a project-based subsidy through HUD?
 - Does the property receive a project-based subsidy through the U.S. Department of Agriculture?
2. Does the property “participate in” the Section 542 Rural Housing Voucher program?
 - Does the property have *any* tenant who uses a Rural Housing Voucher?

OR

3. Does the property have a federally backed single family (1-4 units) or multifamily mortgage:
 - Does the property have a mortgage insured by the Federal Housing Administration (FHA)?
 - Does the property have a mortgage guaranteed, provided by, or insured by HUD, the Department of Veterans Affairs (VA), or Department of Agriculture (USDA)?
 - Is the mortgage owned by Fannie Mae or Freddie Mac?

IF YES TO ANY OF THE ABOVE

Under §§ 4024(b)-(c) (*see back*) a landlord may not:

1. **Evict for nonpayment of rent or fees until after July 25, 2020**
2. **Issue a notice to vacate for any reason until after July 25, 2020**
3. **Charge late fees for late rent that accrues during the period of time from March 27, 2020 through July 25, 2020**

NOTE: The landlord has access to information regarding whether their property is covered by the CARES Act. The tenant often does not have access to this information because it is not public record or accessible without a landlord’s social security number (see next page for resources to locate information). As such, **the landlord should be required to prove they are not covered by the CARES Act.**

Excerpt from **Coronavirus Aid, Relief, and Economic Security (“CARES”) Act**
Effective Date: March 27, 2020
Public Law 116-136

Section 4024(b) MORATORIUM.—During the 120-day period beginning on the date of enactment of this Act,* the lessor of a covered dwelling may not—

- (1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or
- (2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

Section 4024(c) NOTICE.—The lessor of a covered dwelling unit—

- (1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and
- (2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection (b).

***From March 27, 2020 through July 25, 2020**

Additional resources for judges on the protections under the CARES Act:

National Housing Law Project Summary:

<https://www.nhlp.org/wp-content/uploads/2020.03.27-NHLP-CARES-Act-Eviction-Moratorium-Summary.pdf>

National Housing Preservation Database FAQ:

<https://preservationdatabase.org/frequently-asked-questions-about-eviction-protection-and-the-cares-act/>

How to find out if it is a covered property (Covered by VAWA or USDA rural housing voucher):

- If the tenant must do an annual income recertification the property is likely a covered property
- If the tenant deals with a Public Housing Authority for matters related to their housing it is likely a covered property
- If the tenant’s rent adjusts based on their income the property is likely a covered property
- The tenant’s lease may reference a federal subsidy program
- Some subsidies are searchable on the National Housing Preservation Database:
<https://preservationdatabase.org/>

How to find out if it is a covered property (Federally-backed mortgage):

- Sometimes this information is recorded in public records, but sometimes it is not.
- A non-exhaustive database of multifamily properties with HUD, FHA, USDA, Fannie Mae and Freddie Mac mortgages can be found at the National Low Income Housing Coalition: https://nlihc.org/federal-moratoriums?ct=t%28update_041720%29
- Properties that have multifamily FHA or USDA mortgages are searchable on the National Housing Preservation Database: <https://preservationdatabase.org/>
- The landlord can call the FHA, VA, USDA, Fannie Mae or Freddie Mac escalation number listed on this website to inquire as to the status of their mortgage:
<https://www.hmpadmin.com/portal/resources/advisors/escalation.jsp>
- The landlord can look up if Fannie Mae or Freddie Mac own their mortgage on these sites:
<https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>
<https://www.knowyouroptions.com/loanlookup>
<https://ww3.freddie.com/loanlookup/>