

Housing Trust Fund CARES Act Eviction Moratorium FAQs

The following Q and A's provide guidance on Section 4024 of the CARES Act. Section 4024 of the CARES Act imposes a temporary moratorium on evictions. The temporary eviction moratorium applies to certain dwelling units assisted by the Housing Trust Fund (HTF), as discussed below.

Introduction

On March 27, 2020, the president signed the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136) (CARES Act) into law. Section 4024 of that legislation imposes a temporary moratorium on evictions. This moratorium went into effect immediately upon the enactment of the CARES Act on March 27, 2020 for 120 days.

Link to CARES Act: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748eas.pdf>

Q1: How does Section 4024 of the CARES Act apply to properties assisted with HTF funds?

The CARES Act applies to a property with HTF assistance structured as a loan and secured by a lien on residential real property. As HTF is not a “covered housing program” (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 USC 12491(a)), only a property assisted with a HTF loan secured on the property is a “covered property” under Section 4024(a)(2)(B) of the CARES Act.

Projects that received HTF assistance as a grant or unsecured loan (rather than a HTF loan secured by a lien on residential real property) are not subject to the CARES Act eviction moratorium but could be subject to local and state moratoriums on evictions.

When assessing the applicability of the CARES Act temporary eviction moratorium on a project, sponsors are reminded to review all sources of support, as other incentives and funding sources (e.g., HOME or LIHTC) are “covered housing programs” under the CARES Act.

Q2. Do the repayment terms of the HTF loan affect the applicability of the CARES Act moratorium on the units in a property?

No, the applicability of the moratorium is not affected by the repayment terms of the HTF loan. Any project with an HTF loan secured by a lien on residential real property is a covered property under Section 4024(a)(2)(B) of the CARES Act. This includes HTF loans with “soft” financing terms such as deferred or residual receipts payments and forgivable loans.

Q3. Does the CARES Act eviction moratorium apply to all the residential rental units in a project with a HTF loan secured by a lien on the residential real property?

Yes, the CARES Act moratorium applies to all residential rental units in or on a property (i.e. multifamily and multiunit single family) that has a HTF loan secured on the residential real property, regardless of whether the project is within its HTF Period of Affordability (POA). The residential rental units in or on the property are covered dwelling units under Section 4024(a)(1) & (2)(B) of the CARES Act.

Q4. How does the CARES Act eviction moratorium affect covered dwelling units in HTF-assisted projects?

For a period of 120 days, beginning on March 27, 2020 and continuing through July 24, 2020, an owner cannot:

- Make, or cause to be made, any filing with the court of jurisdiction to initiate an eviction (e.g., an unlawful detainer action, complaint) for non-payment of rent or other fees or charges; or
- Charge fees, penalties, or other charges to the tenant related to non-payment of rent.

If an owner did not provide the tenant with an eviction notice, including but not limited to a notice to vacate, quit, or terminate tenancy, for nonpayment of rent or other fees or charges before March 27, 2020, the owner may not issue such notice until after the 120-day period.

Q5. During the CARES Act 120-day eviction moratorium period, can fees related to nonpayment of rent accumulate and be charged to the tenant after the moratorium?

No. Per Section 4024(b) of the CARES Act, fees, penalties, or charges in relation to nonpayment of rent cannot be charged. Therefore, there should be no charges, penalties, or fees assessed and accrued for non-payment of rent during the 120-day period.

Q6. During the CARES Act 120-day eviction moratorium period, can monthly rent and fees and other charges (except those related to nonpayment of rent) accrue and be charged to the tenant after the CARES Act moratorium ends?

Yes, unpaid monthly rent and fees and other charges (except fees and charges related to nonpayment of rent) may accrue during the 120-day period and be charged to the tenant after the CARES Act 120-day moratorium period ends on July 24, 2020.

Q7. During the moratorium period, may owners evict tenants for lease violations that are not related to nonpayment of rent, fees, or charges?

Yes. The CARES Act moratorium does not apply to evictions based on violations of permitted lease terms other than nonpayment of rent or other fees, penalties, and charges. However, the HTF regulations at 24 CFR 93.303 still apply to HTF-assisted units. Grantees should also review their state and local laws, as many state and local jurisdictions are also enacting their own moratoriums on evictions.

Q8. How should a grantee notify owners of the CARES Act eviction moratorium?

A HTF grantee should provide written notification to owners of HTF-assisted projects (including single-family properties with rental units) that the CARES Act prohibits the actions described above. In addition, grantees should direct project owners to provide tenants with information about their due process rights under the HTF Program and should encourage project owners to provide as much flexibility as possible to tenants with respect to repayment of delinquent rent payments after expiration of the moratorium.

Q9. Will HUD issue additional guidance on the use of HTF funds in response to the COVID-2019 pandemic and application of the CARES Act?

HUD will continue to update guidance on the use of HTF funds and the CARES Act as needed.