

RESIDENTIAL EVICTIONS: WHAT HOMEOWNERS NEED TO KNOW

As of July 28, 2020

This document is for informational purposes only, is not intended as legal advice, and does not substitute for consulting with a lawyer about specific facts and circumstances. This document does not constitute a solicitation, and your use of this document does not create any attorney-client relationship between you and Lowenstein Sandler.

REMOVALS

Can I be removed from my home as a result of a foreclosure proceeding during the COVID-19 emergency?

No. On March 19, 2020, New Jersey Governor Philip Murphy issued [Executive Order 106](#), which immediately suspends evictions and removals throughout the state. This is called an “eviction moratorium,” and it means that, except in rare circumstances, **no homeowner may be removed from his or her home as a result of a foreclosure proceeding at this time**. You cannot be removed even if a [final judgment of foreclosure](#) has been entered and a [sheriff’s sale](#) of your property has taken place. The eviction moratorium does **not** affect court proceedings; instead, it prevents removals. More information on court proceedings is below.

How long will the eviction moratorium last?

The eviction moratorium began on March 19, 2020, and it will last until two months after Governor Murphy declares an end to the COVID-19 health crisis. The Governor has extended the official public health emergency several times, most recently through [Executive Order 162](#), which will expire on August 1. Unless the Governor extends the emergency again, or ends it early, the eviction moratorium will expire two months later, on October 1.

Do I still need to pay my mortgage?

Yes. You will have to make your mortgage payments sooner or later. If you need extra time, however, help is available.

If you have a federally backed mortgage (including a mortgage from Fannie Mae, Freddie Mac, or the Federal Housing Administration, among others), you have the right to ask your mortgage servicer for forbearance (a pause on payments) to relieve financial hardship arising from the pandemic. If you own a one-to-four-unit residential building, the federal [CARES Act](#) requires servicers of federally backed mortgages to give struggling borrowers a 180-day grace period on payments. The borrower may request one extension of up to 180 days. During the grace period, the servicer cannot charge you fees, penalties, or interest other than what you would owe if you had paid on time. If you own a residential building with five or more units and you have suffered financial hardship because of the pandemic, the CARES Act requires servicers of federally backed mortgages to offer you a grace period of up to 90 days, in

three 30-day increments. The National Low-Income Housing Coalition has constructed a [searchable database](#) of many (but not all) of the properties covered by the CARES Act.

In addition, Governor Murphy has announced some [important relief for homeowners with mortgages](#), including those that are not backed by the federal government. If you contact your mortgage servicer, you may be eligible for: (1) a 90-day grace period for mortgage payments; (2) assurance that the servicer will not report late or missed payments during this period to credit agencies; (3) a 60-day moratorium on servicers' initiation of foreclosure sales or evictions; and (4) relief from certain fees and charges for at least 90 days. For more information, check the [FAQs](#) issued by the state. You can also check the website of [New Jersey Housing and Mortgage Finance Agency](#) for updates on available help and to access a list of counselors by county.

Is there a national moratorium on evictions?

Yes, for some homeowners. On June 17, the [Federal Housing Administration \(FHA\)](#), [Fannie Mae](#), and [Freddie Mac](#) extended their foreclosure and eviction moratoriums for single-family mortgages through August 31, 2020. This period may be further extended by additional agency action or legislation.

COURT HEARINGS

Can lenders still begin foreclosure proceedings during this period?

Not if you hold a single-family federally backed mortgage. The foreclosure moratorium adopted by the FHA, Fannie Mae, and Freddie Mac prevents servicers from filing foreclosure proceedings against homeowners with single-family mortgages through August 31, 2020. This period may be further extended by additional agency action or legislation.

Yes, if you don't hold a federally backed mortgage. The state [Executive Order](#) and [related legislation](#) specifically state that lenders can bring foreclosure actions during the time the order is in effect. The Superior Court [Office of Foreclosure](#) is accepting new cases and electronic filings in existing cases. The portion of the [state-negotiated protections](#) under which lenders agreed not to file new foreclosure actions expired on May 27, 60 days from when it was announced.

Will the Foreclosure Office process cases during this period?

Yes. The Foreclosure Office administers parts of most foreclosure cases and manages most of the process when a foreclosure is "uncontested," meaning that the homeowner did not file an answer to the complaint. Under a [June 25 order](#) issued by the New Jersey Supreme Court, the Office of Foreclosure is processing cases as it normally does. If you have questions about an uncontested foreclosure case that is pending, you can try contacting the Office of Foreclosure at 609-421-6100 or Scco.Mailbox@njcourts.gov.

Will the courts hear foreclosure cases during this period?

Yes. There is no order suspending court hearings in contested foreclosure cases (in which the homeowner answered the complaint). Please note, however, that under a [June 25 order](#) (reaffirmed by a [July 24 order](#)), "courts at all levels are continuing to operate primarily using remote (video and phone) technologies." Until the Court lifts or amends the order, most hearings, conferences, and arguments will

be held by video or telephone. Please check with the court where the case is pending if you have questions. Please also check the [New Jersey Courts website](#) for updates on how and when proceedings will take place.

Can my utilities be shut off during the COVID-19 crisis?

No. As of March 13, New Jersey's [electric and gas utilities](#) voluntarily suspended utility shut-offs, and that suspension appears to be ongoing. We have heard that some of the utility companies are sending shut-off notices to homeowners, but it seems they are not following through with actual shut-offs.

Do I still have to pay for utilities and water?

Yes. You still have to pay your electric, gas, and water bills. If you cannot pay now, you will have to pay later. The utilities and water companies are not cancelling debts; they are just postponing shutoffs for the time being. DCA offers low-income homeowners [assistance with some utility bills](#), and you can call the customer service number on your utility bill to try to work out a payment plan.