

RESIDENTIAL EVICTIONS: WHAT HOMEOWNERS NEED TO KNOW

As of January 12, 2021

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 suspended 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 210](#), which will expire on January 20, 2021. Unless the Governor extends the emergency again, or ends it early, the eviction moratorium will therefore expire two months later, on **March 20, 2021.**

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 for some.

If you have a mortgage from the [Federal Housing Administration](#) for a single family residence, you have the right until **February 28, 2021** to ask for forbearance (a pause on payments) to relieve financial hardship arising from the pandemic. If you have a mortgage for a multifamily property from [Fannie Mae and Freddie Mac](#), you can enter into a forbearance agreement through **March 31, 2021**, if you offer certain tenant protections. Property owners should check with their mortgage servicers to ascertain what forbearance programs (if any) are available to them.

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 December 2, 2020, the [Federal Housing Finance Agency](#) extended Fannie Mae and Freddie Mac's foreclosure and eviction moratoria through at least **January 31, 2021**. The foreclosure moratorium applies to single-family mortgages backed by Fannie Mae or Freddie Mac. The eviction moratorium applies to properties these entities have acquired through foreclosure. On December 21, 2020, the [Federal Housing Administration](#) extended its foreclosure and eviction moratorium for single-family FHA-insured mortgages through **February 28, 2021**. 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 Fannie Mae and Freddie Mac prevents servicers from filing foreclosure proceedings against homeowners with single-family mortgages through **January 31, 2021**. The foreclosure moratorium adopted by the FHA prevents servicers from filing foreclosure proceedings against single-family mortgage holders through **February 28, 2021**. These periods 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.

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, water, phone, and internet be shut off during the COVID-19 crisis?

No. As of March 13, 2020, New Jersey’s electric and gas utilities [voluntarily suspended utility shut-offs](#). On October 15, 2020, the Governor’s Office issued [Executive Order 190](#). This Order suspends residential utility and water shutoffs until **March 15, 2021**, requires resumption of service that has been discontinued, and forbids the imposition of late fees arising during the emergency period. In addition, the Order requires cable and telecommunications providers to check with existing customers to see if school-aged children are using the internet service for educational purposes. If so, the provider may not terminate the service until **March 15, 2021**. In all other cases, the provider must offer an interest-free payment plan and may not disconnect service if the customer agrees to such a plan.

Do I still have to pay for utilities and water?

Yes. You still have to pay whatever electric, gas, water, phone, or internet bills you normally pay. If you cannot pay now, you will have to pay later. The Department of Community Affairs (DCA) offers low-income tenants [assistance with some utility bills](#); you can call the customer service number on your utility bill, or look up the number [here](#), to try to work out a payment plan; or you can check the [website](#) of the Board of Public Utilities for a list of agencies that offer assistance.