



Frequently Asked Questions (“FAQ”) for Executive Order No. 171

October 28, 2020

(updated: 12/30/2020, 01/27/2021)

This FAQ provides guidance for the implementation of Executive Order No. 171 (“Order”), which has been extended by Executive Order Nos. 184 and 191. The Order clarifies, ensures compliance, and extends protections under the Centers for Disease Control and Prevention (“CDC”) order temporarily halting certain residential evictions for nonpayment of rent (“CDC Order”). Below are frequently asked questions (“FAQs”) and their answers. In addition, individuals should check with local governments to determine whether additional restrictions have been imposed in their local jurisdictions to limit the spread of COVID-19.

This information is subject to change in light of new CDC guidance and additional Executive Orders or local government declarations.

General Information

When does this Order expire?

This Order takes effect on October 30, 2020 at 5:00 p.m.

Has this Order been extended or modified?

- Executive Order 184 extended Executive Order 171 until January 31, 2021.
- Executive Order 191, extends this Executive Order until March 31, 2021, unless repealed, replaced, or rescinded.

How long is the CDC Order in effect?

The CDC Order, which prohibits residential landlords nationwide from evicting certain tenants, went into effect on September 4, 2020 and was scheduled to expire on December 31, 2020. On December 27, 2020, the President signed the Consolidated Appropriations Act, 2021, which extended the CDC Order through January 31, 2021. On January 20, 2021, at the direction of the President, the CDC issued a media statement announcing that the CDC would extend its Order until at least March 31, 2021.

Information for Residential Tenants

Which residential tenants does this Order protect?

This Order protects individuals who qualify under the CDC Order, including those who:

- Have used their best efforts to obtain government assistance for housing;
- Are unable to pay their full rent due to a substantial loss in income;
- Are making their best efforts to make timely partial payments of rent;
- Would become homeless or have to move into a shared living space if evicted; and
- Meet one of the following financial requirements:
 - An individual who earns \$99,000 or less, or joint filers who earn \$198,000 or less,
 - An individual who received a stimulus check, or
 - An individual who was not required to report any income to the IRS in 2019.

Applicants eligible for the North Carolina Housing Opportunities and Prevention of Evictions (“HOPE”) program are also specifically protected from eviction under this Order.

Does the CDC Order cover all forms of rental housing?

The CDC Order applies to all standard rental housing. It does not cover individuals renting hotels, motels, or other temporary guest home rentals.

How are tenants protected?

The CDC Order stops evictions for nonpayment of rent as long as the tenant qualifies and gives his or her landlord a signed declaration form, attesting that they qualify. If an eviction action is filed, landlords are required to provide tenants with a blank copy of the CDC declaration form.

Information for Residential Landlords

What are the requirements for landlords under this Order?

This Order requires that in any eviction action filed on or after the Order’s date, a landlord must certify (through an affidavit presented to the court) that they have provided the tenant with a blank copy of the CDC declaration form.

Where can landlords find the declaration form?

The CDC declaration form may be found here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>. Tenants may also fill out an equivalent form that contains all of the required attestations.

Must each tenant under the same lease fill out a declaration form in order to avoid eviction?

No. A single declaration form from at least one tenant responsible for paying rent activates the protections of this Order for all tenants under that lease. This is different from the general nationwide procedure under the CDC Order.

If an eviction proceeding has begun and a tenant then presents a declaration form to the court or landlord, does this Order prevent them from being evicted?

For an action pending or initiated after the date of this Order, the landlord must immediately notify the court when he or she receives a declaration from the tenant and submit it to the court within 5 days. Unless the landlord submits a response contesting the declaration, the landlord may not request a writ of possession.

Can a landlord remove a tenant for other reasons besides nonpayment or late payment of rent?

Yes. Nothing in the Order precludes evictions for reasons other than nonpayment or late payment of rent and other fees. If a tenant submits a CDC Declaration, but the reason for eviction is something other than nonpayment or late payment, the landlord may file a response with the court identifying in writing why the landlord believes the action should still proceed despite the protections of the CDC Order. If the court determines that the eviction should proceed and a judgment is ultimately entered against the tenant, the landlord may request a writ of possession.

I am a landlord and believe the information provided by a tenant on the declaration form is false, what do I do?

Landlords may challenge a tenant's Declaration by filing a response to the court identifying in writing why the landlord believes the eviction action should proceed. The court will hold a hearing to determine whether the eviction action should proceed. If the court determines that the eviction should proceed, the landlord may then request a writ of possession.

Are tenants still responsible for back rent accumulated during the moratorium?

Tenants are still responsible for unpaid rent balances that exist at the expiration of this moratorium.

What programs are available to assist tenants and provide landlords with income?

- HOPE Program- <https://nc211.org/hope/>.
- To learn about other resources available in your community, visit <https://nc211.org/> or call NC 2-1-1.