



April 3, 2020

The Honorable Patrick L. Carroll III
Chief Court Administrator
Connecticut Judicial Branch
231 Capitol Avenue
Hartford, CT 06106

Dear Judge Carroll,

We write to urge the Judicial Branch to expand the existing Connecticut moratorium on summary process actions so that it will last as long as the federal eviction moratorium contained in the CARES Act, effective March 27, 2020 and, as provided in that act, will apply from the initiation of the eviction process. This will protect tenants during the public health emergency; avoid a backlog of evictions when the crisis has concluded; and avert confusion about which laws apply when the Housing Session reopens.

We appreciate that the Judicial Branch has suspended evictions until May 1, 2020. However, that deadline is now barely 30 days away and tenants continue to be served with eviction actions, most for nonpayment of rent. Approximately 700 new eviction cases have been filed since the Governor's declaration of a public health emergency on March 11th. Five hundred sixteen evictions were filed since the closing of the courts for non-priority matters on March 16, 2020. We fear those numbers will exponentially rise in April based on the unemployment data that is being published.

Section 4024 of the federal CARES Act, effective on March 27, 2020, prohibits most eviction filings by public and private landlords receiving any direct or indirect form of federal assistance, insurance, or guaranty.¹ This includes housing authorities, private landlords with tenants who have Section 8 vouchers, and other privately-owned federally-subsidized housing, and also all private landlords whose mortgages are federally backed, including mortgages purchased or securitized in the secondary market by Fannie Mae or Freddie Mac. The federal eviction

¹ Specifically the CARES Act prohibits evictions for non-payment of rent because those are likely to be the overwhelming majority of cases filed in coming months. The Connecticut moratorium covers all evictions. It is essential to maintain this broad coverage, because evictions based on other grounds, such as lapse of time, could easily be used to mask the true reason for a lease termination. Moreover, it would be easy for landlords, by pleading multiple counts, to undercut the very purpose of the moratorium

moratorium in CARES imposes on all covered landlords two major provisions that go beyond the existing Connecticut moratorium:

(1) The federal moratorium applies for 120 days until July 26, 2020, well beyond Connecticut's moratorium.

(2) Under the federal CARES Act, a demand to vacate cannot be made without first giving the tenant a 30-day notice, which cannot be given until after the end of the moratorium. In other words, these landlords cannot file in court before at least the end of August. This additional 30 days is intended to give tenants the opportunity to resolve matters with the landlord and avoid an eviction action.

We urge the Judicial Branch to expand the Connecticut eviction moratorium to include these provisions for all landlords, not just those covered by the federal CARES Act, and particularly to include an extension of the moratorium beyond May 1, 2020, as described below, and a prohibition on initiating any eviction during that same time period.

Specifically, we respectfully request that the Judicial Branch:

- **Extend the May 1 eviction moratorium until 30 days after the declaration of the end of the public health emergency or 30 days after the expiration of the federal eviction moratorium imposed by the federal CARES Act, whichever is later; and**
- **Suspend the filing of all new summary process actions; and**
- **Prohibit the service of new notices to quit by a judicial marshal.**

We know from our work in the community that the initiation of eviction actions during the existing moratorium has resulted in confusion and anxiety for tenants. Some tenants have received notices to quit, writs with instructions to respond by a date certain, or even motions for default, at a time when the courts are largely closed and the Governor has directed all residents not to make unnecessary trips out of their homes.

Incorporating those two provisions into the Connecticut moratorium—a longer moratorium and a prohibition on initiating evictions—will avoid this confusion and will make the administration of eviction proceedings much more manageable for Judicial Branch staff when the moratorium ends.

If the Connecticut moratorium does not last as long as the federal CARES Act eviction moratorium, this will create confusion when the Housing Session restarts. Many of the filings since the effective date of the CARES Act, March 27, 2020, may well be in violation of the prohibitions imposed by this federal law. This will make eviction cases brought by private landlords far more complex, since it will be necessary to determine in every private landlord eviction whether or not the mortgage on the property has been securitized by Fannie Mae or Freddie Mac, a very difficult task since most landlords themselves will not know. It will make it impossible for clerks' offices to return to a simple, uniform process.

In addition, on Wednesday, the Governor by Executive Order required towns to grant financial relief to landlords through property tax deferment and/or interest rate reduction on delinquent property taxes, in most cases conditioned on "commensurate forbearance" to tenants. It will fall to judges to determine if landlords have accepted such relief without passing it on to their tenants.

These intervening actions by Congress and Governor Lamont create a perfect storm for the housing sessions if the Connecticut moratorium is not immediately made more comprehensive.

We are very cognizant of the many competing requests made to the Judicial Branch during this trying time and we appreciate the swift action taken last month to stop people from having to come to court to respond to eviction actions. On behalf of families living in poverty, and the newly unemployed, we respectfully request ask that the Judicial Branch extend these protections and we appreciate your attention to this letter.

Sincerely,

Nilda R. Havrilla, Litigation and Advocacy Director
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J.L. Pottenger, Jr.
Housing Clinic, Jerome N. Frank Legal Services Organization, Yale Law School

Cc: Hon. Richard Robinson, Chief Justice, Connecticut Supreme Court
Hon. James Abrams, Chief Administrative Judge for Civil Matters
Ned Lamont, Governor
Senator Gary Winfield, Co-chair, Judiciary Committee
Representative Steven Stafstrom, Co-chair, Judiciary Committee