



September 23, 2020

via email

The Honorable Ned Lamont
Governor of the State of Connecticut
State Capitol
210 Capitol Avenue
Hartford, CT 06106

Dear Governor Lamont:

We request that you extend the State eviction moratorium through December 31, 2020 to align with the sunset of the nationwide moratorium from the Centers for Disease Control and Prevention (CDC) to ensure protection for all Connecticut's residents during the pandemic.

On September 4, 2020 the CDC published an Order under its public health authority, barring nonpayment and no-fault evictions nationwide. 85 F.R. 55292. The CDC recognized that eviction moratoria are tools in the battle to combat the spread of COVID-19 and that displacement of tenants will have dire public health consequences when people seek to enter homeless shelters or crowd in with friends or family. The CDC's intent is grounded in science and public health practices, but its ability to craft a comprehensive moratorium is limited by statute and by virtue of its national scope. The CDC moratorium is, however, a floor, not a ceiling, allowing states to maintain or implement stronger protections for their residents. Connecticut can fully realize the purposes of the CDC order by extending our state moratorium.

We believe that most tenants who are at risk of eviction are eligible for the CDC moratorium, but many will be trapped in its complexities and will not be able to obtain the protection for which they are eligible. Although the CDC order is broad, its central weakness is that, unlike our own state moratorium, the CDC order requires the tenant to deliver a "declaration" to the landlord. This affirmative requirement has introduced a high level of complexity that will result in many tenants who are eligible for protection being evicted because of their inability to provide the proper paperwork, or to participate in what are largely unnecessary individual judicial proceedings. The reality is that large numbers of eligible tenants will be unaware of the CDC order or its requirements, will have difficulties in communicating electronically with the courts, and will not understand the process. General consensus in the legal community is, we believe, that the CDC order is hard even for skilled professionals to understand. Indeed, the more vulnerable the household, the more likely it is that it will be unable to complete the CDC procedures. In contrast, a moratorium extension that does not require a declaration effectively implements the CDC goals by preventing the very evictions that would spread the virus.

A moratorium extension alone, however, will not address the immediate rush to evict tenants protected by the CDC order, because the large first batch of those evictions is based on pre-April 10 cases not covered by the state moratorium. This would have to be addressed by an Executive Order restricting evictions by marshals, who are Executive Branch officials regulated by the State Marshal Commission. We ask that you consider addressing this very immediate and serious problem, which has arisen since the Judicial Branch lifted its suspension on executions. During the past three weeks, many landlords have requested new executions on previously-issued judgments. The CDC moratorium prohibits landlords from requesting or acting on executions when a tenant has submitted a declaration. Many of these tenants are eligible for protection under the CDC order, but the declaration process has created much confusion as landlords scramble to get executions and tenant advocates try to get information to unrepresented tenants about the CDC action. We know that the complexity of the CDC process has already led the Judicial Branch to believe it must schedule hundreds of individual hearings to determine whether the defendant has delivered a declaration or there is some other reason not to issue an execution. Not only is this process labor-intensive and time-consuming for Judicial, but it greatly increases the risk that tenants, almost all of whom will be unrepresented by counsel, will be evicted imminently if they fail to participate in these hearings, contrary to the important public health goal of the CDC moratorium. If an execution is issued, a marshal needs to give a tenant only 24 hours' notice in order to carry out a physical eviction. Adopting a moratorium that also covers executions, in line with the CDC moratorium, but without the need for a declaration, will eliminate the need for this process and ensure protection for otherwise eligible tenants and the larger community.

We appreciate the ways in which you have understood during this pandemic that preventing housing displacement reduces the spread of Coronavirus, and we are grateful for the actions you have taken to protect Connecticut's most vulnerable residents. We hope you will extend the eviction moratorium through the end of the year.

Sincerely,

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¹ This letter does not represent the institutional views of Yale University or Yale Law School.