

Minnesota Eviction Transition for 2021-2022



By Lawrence McDonough
Attorney at Law

July 14, 2021

Presenter



Lawrence McDonough

Attorney at Law

Adjunct Professor of Law, University of Minnesota School
of Law

Senior Minnesota Fellow, Lawyers' Committee for Civil
Rights Under Law

651-398-8053

mcdon056@umn.edu

<http://povertylaw.homestead.com/Biolarrymcdonough.html>

Prior Presentations



Revised from Prior Presentations:

- Heading Home Anoka Housing Collaborative - July 14, 2021
- Heading Home Anoka Housing Collaborative Prevention and Outreach Subcommittee - July 7, 2021
- Minnesota CLE - June 22, 2021
- Fond du Lac Human Services Division Center for American Indian Resources - May 20, 2021
- Mediation and Restorative Services (MARS) - April 27, 2021
- Mitchell Hamline School of Law Institute to Transform Child Protection - April 15, 2021
- Volunteer Lawyers Network - April 2, 2021
- Eighth District Court - March 26, 2021
- Judicare of Anoka County - March 4, 2021
- Seventh District Court - February 26, 2021
- Law Enforcement Training Services, LLC, and The Minnesota Sheriffs' Association - February 16, 2021
- Third District Court - January 29, 2021
- Ninth District Court - January 8, 2021
- Hennepin County Bar Association Landlord Tenant Law Section - December 14, 2020
- HOME Line - November 18, 2020
- Minnesota Justice Foundation - October 5, 2020
- University of Saint Thomas School of Law - October 5, 2020
- University of Minnesota School of Law - September 8, 2020
- Law Enforcement Training Services, LLC and the Minnesota Sheriffs' Association - July 20, 2020
- Legal Services State Support - May 1, 2020

Resources



[Housing Law in Minnesota](#)

- Residential Eviction Defense and Tenant Claims in Minnesota
- Answers Forms
- [Pandemic Eviction Defense and Tenant Claims in Minnesota](#)
- Tenants of Landlords in Foreclosure
- Public and Subsidized Housing
- Criminal Activity Cases
- Personal Property Disputes after an Eviction Judgment
- Expungement of Eviction Court Records
- Motions to Vacate Judgments
- Habitability and Lockout Cases
- Security Deposits

HOME Line - <https://homelinemn.org/> HOME Line provides free and low-cost legal, organizing, education, and advocacy services so that tenants throughout Minnesota can solve their own rental housing problems.

Law Help - <http://www.lawhelpmn.org/> Answers to legal questions, finding legal aid offices, and court information.

Minnesota State Law Library - <https://mncourts.libguides.com/covid19/housing#s-lg-box-wrapper-27963214>
General information and resources for landlords and tenants.

Eviction Transition



Minnesota Session Laws 2021, 1st Special Session, Chapter 8 H. F. No. 4, Article V

<https://www.revisor.mn.gov/laws/2021/1/Session+Law/Chapter/8/>

It ended Executive Orders 20-14, 20-73, and 20-79 and replaced them with eviction moratorium phase-out on June 30, 2021.

Eviction Transition



Immediately - June 30, 2021, and for 105 Days Through October 12, 2021- Eviction Notice for Nonpayment of Rent

- Pre-filing notice of 15 days prior to filing for nonpayment of rent, stating that the moratorium ended and the tenant may be subject to eviction, the total rent due, and the availability of assistance from calling 211 or going to RentHelpMN <https://www.renthelpmn.org/>.
- The notice is not limited to residential tenancies, so it includes commercial tenancy, mortgage foreclosure, and contract for deed cancellation eviction court cases claiming nonpayment of rent.
- Court may exercise discretion in staying eviction proceeding if it finds improper notice.
- Substantial compliance - lack of strict compliance not a defense
- Expires after 105 days - October 12, 2021

Eviction Transition



Immediately - June 30, 2021 - Lease Termination and Nonrenewal:

Residential landlords can terminate or not renew a lease where:

- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The tenant commits material lease violations
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- The tenant requests termination.
- Limitations on lease termination and nonrenewal do not apply to commercial leases.

Eviction Transition



Immediately - June 30, 2021 - Eviction Court Cases:

Eviction court cases may be filed where:

- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other 30.18 residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Transition



Immediately - June 30, 2021, and Through October 12, 2021- Manufactured Homes

Manufactured home parks can terminate leases and filed eviction court cases where:

- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other 30.18 residents or park personnel

Owners of security interests in manufactured homes located in Minnesota pursuant to Minnesota Statutes, section 327.64 may not:

- Deliver default notices
- File an action for a court order to remove an occupant from a manufactured home.

Eviction Transition



At 15 Days:- July 14, 2021- Eviction Court Cases:

- ***New: Residential and commercial landlords can file eviction actions where the tenant commits material lease violations.***
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other 30.18 residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Transition



At 45 Days - August 13, 2021- Lease Termination and Nonrenewal:

- ***New: Residential landlords can terminate or not renew the lease if the tenant owes rent and is ineligible for emergency rent assistance.***
- The tenant seriously endangers the safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The tenant commits material lease violations
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- The tenant requests termination.
- Limitations on lease termination and nonrenewal do not apply to commercial leases.

Eviction Transition



At 75 days - September 12, 2021 - Eviction Court Cases:

- ***New: Residential and commercial landlords can file nonpayment eviction actions for those ineligible for rental assistance.***
- The tenant commits material lease violations.
- The tenant seriously endangers safety of others or significantly damages property
- The tenant violates Minn. Stat. § 504B.171, Subd. 1.
- The manufactured home park resident violates Minn. Stat. § 327C.09, Subds. 3 and 5, if endangering the safety of other 30.18 residents or park personnel
- Nonpayment of rent if the tenant is (1) eligible for assistance and (2) refuses to apply or provide information to the landlord or refuses to provide proof to the landlord that the tenant applied.
- The tenant or occupant abandons the premises.
- These limitations apply to eviction court cases for commercial leases, mortgage foreclosure and contract for deed cancellation.

Eviction Transition



At 105 days - October 12, 2021:

- The rent notice requirement ends for residential and commercial landlords.
- Residential landlords can terminate or not renew leases for file eviction court cases for any reason allowed by law except landlords cannot file eviction actions for nonpayment of rent against tenants with pending rental assistance application.
- Limitations on lease termination and nonrenewal do not apply to commercial leases.

Through June 1, 2022:

- Landlords cannot file eviction actions for nonpayment of rent against tenants with pending rental assistance application.
- Tenants must provide landlords or the court with proof of pending rental assistance application and the reason for delay in processing the application if the tenant reasonably has access to the information.

Emergency rent assistance only includes COVID money (Consolidated Appropriations Act or ARPA)

Coronavirus Aid, Relief, and Economic Security (CARES) Act § 4024



Part of the Act remains in effect.

A lessor (***of a covered property***) may not evict a tenant after the moratorium expires except on 30 days' notice that may not be given until after the moratorium period.

This provision is not limited to nonpayment of rent, and has no expiration date.

<https://library.nclc.org/sec-4024-temporary-moratorium-eviction-filings>

<https://library.nclc.org/major-consumer-protections-announced-response-covid-19#content-1>

CARES Act § 4024 - Covered Properties



The Act defines a “covered property” as a property that:

- participates in a “covered housing program” as defined by the Violence Against Women Act (VAWA) as amended through the 2013 reauthorization, or participates in the “rural housing voucher program under section 542 of the Housing Act of 1949” (HUD and Rural Housing Service public and subsidized housing programs)
- has a federally backed mortgage loan or a federally backed multifamily mortgage loan

According to recent estimates, the CARES Act applies to as many as 50% of tenancies in Minnesota.

CARES Act § 4024 - Covered Properties



- Properties that “participate in” a subsidy program covered by the Violence Against Women Act (VAWA”):
 - Section 8 Housing Choice Voucher (“HCV”) or VASH (HUD-Veterans Affairs) voucher
 - Section 8 Project-Based Voucher (PBV) units
 - Public housing units
 - HOME (HOME Investment Partnership) units
 - HOPWA (Housing Opportunities for Persons with AIDS) units
 - Permanent Supportive Housing (PSH) units
 - Tenants that use a PSH or Shelter Plus Care voucher
 - Federal Low Income Housing Tax Credit (LIHTC or “tax credit”) units
 - Property receives a project-based subsidy through HUD
 - Property receive a project-based subsidy through the U.S. Department of Agriculture
- Property participated in the Section 542 Rural Housing Voucher program
- Property has any tenant who uses a Rural Housing Voucher

CARES Act § 4024 - Covered Properties



How to find out if it is a covered property (Covered by VAWA or USDA rural housing voucher):

- If the tenant must do an annual income recertification the property is likely a covered property
- If the tenant deals with a Public Housing Authority for matters related to their housing it is likely a covered property
- If the tenant's rent adjusts based on their income the property is likely a covered property
- The tenant's lease may reference a federal subsidy program
- Some subsidies are searchable on the National Housing Preservation Database: <https://preservationdatabase.org/>

CARES Act § 4024 - Covered Properties



Property has a federally backed single family (1-4 units) or multifamily mortgage:

- Mortgage insured by the Federal Housing Administration (FHA)
- Mortgage guaranteed, provided by, or insured by HUD, the Department of Veterans Affairs (VA), or Department of Agriculture (USDA)
- Mortgage owned by Fannie Mae or Freddie Mac

Federally backed multifamily mortgage loan secured by a property with five or more dwelling units

CARES Act § 4024 - Covered Properties



Covered Properties

How to find out if it is a covered property (Federally-backed mortgage):

- Sometimes this information is recorded in public records, but sometimes it is not.
- A non-exhaustive database of multifamily properties with HUD, FHA, USDA, Fannie Mae and Freddie Mac mortgages can be found at the National Low Income Housing Coalition: https://nlihc.org/federal-moratoriums?ct=t%28update_041720%29
- Properties that have multifamily FHA or USDA mortgages are searchable on the National Housing Preservation Database: <https://preservationdatabase.org/>
- The landlord can call the FHA, VA, USDA, Fannie Mae or Freddie Mac escalation number listed on this website to inquire as to the status of their mortgage: <https://www.hmpadmin.com/portal/resources/advisors/escalation.jsp>

The landlord can look up if Fannie Mae or Freddie Mac own their mortgage on these sites:

<https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>

<https://www.knowyouroptions.com/loanlookup>

<https://www3.freddiemac.com/loanlookup/>

CDC Eviction Suspension Order



The Centers for Disease Control and Prevention (CDC) extended its eviction suspension another month through July 31.

- <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>
- <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-biden-harris-administration-announces-initiatives-to-promote-housing-stability-by-supporting-vulnerable-tenants-and-preventing-foreclosures/>

The United States Supreme Court recently refused to block it.

- https://www.supremecourt.gov/opinions/20pdf/20a169_4f15.pdf

It probably has no impact on Minnesota since the eviction transition law is more protective of tenants.

CDC Eviction Suspension Order - Resources



CDC Eviction Suspension Order

<https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/eviction-moratoria-order-faqs.pdf>

National Housing Law Project

<https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/>

<https://www.nhlp.org/wp-content/uploads/CDC-FAQ-for-Renters.pdf>

National Low Income Housing Coalition

<https://nlihc.org/coronavirus-and-housing-homelessness/national-eviction-moratorium>

<https://nlihc.org/sites/default/files/Overview-of-National-Eviction-Moratorium.pdf>

Court Planning



- *Standing Order re 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01* (Minn. Dist. Ct. 4th Dist. July 22, 2020) (Judge Robiner) (Appendix PED-19)
- *Administrative Order Regarding the Resumption of Housing Court Operations* (Minn. Dist. Ct. 2nd Dist. Aug. 19, 2020) (Judge Castro) (Appendix PED-19a)
- **STANDING ORDER Re: 60 day period following the expiration of the Peacetime Emergency Declared in Executive Order 20-01** (Minn. Dist. Ct. 10th Dist. Anoka Cty. Oct. 29, 2020) (Judge Fountain Lindberg) (Appendix PED-36)
- Other Minnesota Supreme Court and District Court pandemic orders are posted [here](#).

Eviction Transition Financial Assistance



Here are selected programs that offer financial assistance.

[COVID-19 Emergency Rental Assistance](#)

The new Minnesota Housing Finance Agency (MHFA) emergency rental assistance program is called COVID-19 Emergency Rental Assistance, which is operating under the banner of RentHelpMN.

- On line: <https://www.renthelpmn.org/>
- Call 211. The 211 helpline has dedicated multilingual staff available to answer questions about RentHelpMN, 8:00 a.m. – 8:00 p.m. Monday through Saturday.
- Information sessions: <http://youtu.be/2nTW9VQ7zWg>
- [Foreclosure prevention and forbearance](#)

The Zero Balance Project: Rental Assistance in Dakota, Hennepin and Ramsey Counties, and Minneapolis and St Paul

- <https://housinglink.org/List/emergency-rental-assistance>
- In The Zero Balance Project, landlords start and lead the application on behalf of their renters.

Other Financial Assistance



[Hennepin County Emergency Rental Assistance](#)

[Neighborhood House](#)

[Ramsey County Economic Assistance](#)

[Anoka County](#)

[Minnesota Department of Human Services](#)

[United Way 211](#)

Call 211TM or 651-291-0211: State-wide list of community resources, like housing assistance, shelters, and food shelf locations

[State and Local Rental Assistance \(National Low Income Housing Coalition - viewed April 9, 2021\)](#)

Looking for Housing



Housing Link

International Market Square

Suite 509

275 Market Street

Minneapolis, MN 55405

612-522-2500

info@housinglink.org

<http://www.housinglink.org>

Mediation Programs



Community Mediation Minnesota consists of several member organizations across the state with staff and volunteers to help resolve disputes. Community Mediation Minnesota has a centralized intake and referral system so anyone in Minnesota can call a single phone number and be connected to a mediator who can provide services via video conferencing.

Community Mediation Member Organizations:

- Community Mediation & Restorative Services, Inc.
- Conflict Resolution Center
- Dispute Resolution Center
- Mediation & Conflict Solutions
- Mediation and Restorative Services
- Restorative and Mediation Practices

Contact:

<https://communitymediationmn.org>

1-833-266-2663

info@CommunityMediationMN.org

What You Can Do: Get Help, Volunteer and Donate



Free Legal Aid Programs Representing Tenants:

- Anishinabe Legal Services - <https://alslegal.org/>
- Central Minnesota Legal Services - <https://www.centralmnlegal.org/>
- Judicare of Anoka County - <http://www.anokajudicare.org/>
- Legal Aid Service of Northeastern Minnesota - <http://lasnem.org/>
- Legal Assistance of Dakota County - <http://www.dakotalegal.org/>
- Legal Assistance of Olmsted County - <http://laocmn.org/>
- Legal Services of Northwest Minnesota - <https://lsnmlaw.org/>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Southern Minnesota Regional Legal Services - <https://www.smrls.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

What You Can Do: Get Help, Volunteer and Donate



Advice:

- On Line Advice: Minnesota Legal Advice Online (MLAO) - <https://www.mnlegaladvice.org/>
- Tenant Hotline Advice: HOME Line - <https://homelinemn.org/>
- See Free Legal Aid Programs (prior slide)

Law Students:

- Minnesota Justice Foundation (MJF) - <https://www.mnjustice.org/>

Mediation:

- Community Mediation Minnesota - <https://communitymediationmn.org/>

Tenant Organizing:

- HOME Line - <https://homelinemn.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>

What You Can Do: Get Help, Volunteer and Donate



Housing Litigation and Policy Advocacy:

- HOME Line - <https://homelinemn.org/>
- Housing Justice Center - <https://www.hjcmn.org/>
- Housing Law in Minnesota - <http://povertylaw.homestead.com/HousingLawinMinnesota.html>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Minnesota Anti-Eviction Project, Lawyers' Committee for Civil Rights Under Law - <https://www.lawyerscommittee.org/>
- United Renters For Justice/Inquilinxs Unidxs Por Justicia - <https://www.inquilinxsunidxs.org/>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

National Housing Litigation and Policy Advocacy:

- National Housing Law Project - <https://www.nhlp.org/>
- National Low Income Housing Coalition - <https://nlihc.org/>

What You Can Do: Advocate



Minnesota Government:

- Governor Tim Walz - <https://mn.gov/governor/about/timwalz/>
- Attorney General Keith Ellison - <http://www.ag.state.mn.us/>
- Minnesota Housing Commissioner Jennifer Ho - <http://www.mnhousing.gov/sites/np/leadership>
- Minnesota Department of Human Rights Commissioner Rebecca Lucero - <https://mn.gov/mdhr/about/staff/commissioner.jsp>
- Minnesota Senators - <https://www.senate.mn/>
- Minnesota House of Representatives - <https://www.house.leg.state.mn.us/members/>

Local Government:

- County Commissioners - <https://mn.gov/portal/government/local/counties/>
- City Mayors and City Councils - <https://mn.gov/portal/government/local/cities/>

What You Can Do: Advocate



Courts:

- Minnesota Supreme Court - <https://www.mncourts.gov/SupremeCourt.aspx>
- District Courts- <https://www.mncourts.gov/Find-Courts.aspx>

United States:

- President Joe Biden - <https://www.whitehouse.gov/>
- Senate - <https://www.senate.gov/>
- House of Representatives - <https://www.house.gov/>
- Centers for Disease Control and Prevention (CDC) - <https://www.cdc.gov/>
- Department of Housing and Urban Development (HUD) - <https://www.hud.gov/>

Questions



Lawrence McDonough

Attorney at Law

Adjunct Professor of Law, University of Minnesota
School of Law

Senior Minnesota Fellow, Lawyers' Committee for Civil
Rights Under Law

651-398-8053

mcdon056@umn.edu

<http://povertylaw.homestead.com/Biolarrymcdonough.html>