A new Insight from the Congressional Research Service compares the eviction moratorium provided for in the CARES Act with the eviction moratorium imposed by the CDC.

The new national eviction moratorium imposed by the Center for Disease Control and Prevention (CDC) in response to the COVID-19 pandemic raises a number of legal and policy questions that remain unresolved, according to a new Congressional Research Service report. A CRS Insight compares the CDC eviction moratorium with the now expired eviction moratorium provided for under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Insight compares the two moratoriums across several key features, including: the time period; coverage; cause for eviction; fees, penalties, and past due rent; and enforcement.

**CDC order.** In September 2020, the CDC imposed a nationwide temporary federal moratorium on residential evictions due to nonpayment of rent. The agency’s action followed an Executive Order by President Donald Trump authorizing the administration to take all lawful measures to prevent residential evictions and foreclosures resulting from financial hardships caused by the COVID–19 pandemic (see Banking and Finance Law Daily, Sept. 2, 2020).

**Time period.** The CARES Act eviction moratorium began on March 27, 2020, and ended on July 24, 2020, although tenants could not be forced to vacate until Aug. 23, 2020—30 days after the moratorium expired. The CDC eviction moratorium, meanwhile, took effect Sept. 4, 2020, and extends through Dec. 31, 2020.

**Coverage.** The CARES Act eviction moratorium applied to federally related properties—those properties receiving federal assistance or with federally backed financing. The CDC moratorium, however, applies to all renters who attest to meeting the order’s income and other eligibility criteria. Renters must assert their right to protection under the CDC order by submitting a signed declaration of eligibility to their landlords.

**Cause for eviction.** The CARES Act eviction moratorium prohibited landlords from initiating eviction proceedings against a tenant for the nonpayment of rent and related fees. The CDC moratorium likewise prohibits evictions tied to nonpayment of rent and related fees.

**Fees, penalties, back rent.** The CARES Act eviction moratorium prohibited landlords from charging fees or penalties for unpaid rent during the period of the moratorium and did not forgive unpaid rent amounts. The CDC moratorium does not prohibit landlords from charging fees or penalties for unpaid rent and, like the CARES Act, does not forgive unpaid rent amounts.

**Enforcement.** The CARES Act eviction moratorium did not include any penalties for noncompliance or other provisions related to enforcement. The CDC moratorium, however, contains several provisions related to enforcement, including penalties for landlords that violate the order and potential penalty of perjury for tenants who falsely declare their eligibility.

**Outstanding questions.** The Insight contends that the CDC eviction moratorium raises a number of unresolved legal and policy questions relating to the order’s legality, enforcement, effectiveness, and financial implications. The Insight notes that at least one legal challenge to the order has been filed, and that, since evictions are a matter for local courts, courts across the country may interpret various provisions of the CDC’s order differently. While the effectiveness of the CARES Act moratorium has been questioned, “[i]t is possible that the penalties in the CDC order will affect landlord decisions to pursue eviction and tenant decisions to pursue protections,” the Insight said.
Addressing the financial implications of the moratorium, the Insight referenced an Aspen Institute study released prior to the release of the CDC order estimating that "29-43% of all renter households, were at risk of eviction by the end of 2020 due to COVID-19-related job loss and economic hardship." The Insight further noted that "the CARES Act provided funding that some states and localities have used to assist renters," and that "there have been calls from both tenant advocates and landlord and housing organizations for Congress to provide additional financial relief to either, or both, landlords and tenants to help cover the backlog of unpaid rent."

Companies: Aspen Institute

LegislativeActivity: CommunityDevelopment Covid19 FinancialStability