

# Northern Virginia Eviction Prevention & Housing Stability Toolkit



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## **About This Toolkit**

The goal of this toolkit is to shed light on what is being done to stabilize communities in Northern Virginia, and where gaps in eviction prevention efforts remain. This toolkit was created in collaboration with a regional coalition of advocates, attorneys, property owners and representatives from local governments, convened by the Northern Virginia Affordable Housing Alliance (NVAHA) and Legal Services of Northern Virginia (LSNV). Due to the dynamic and evolving nature of housing stability during the COVID-19 pandemic, the information in this Toolkit is subject to frequent updates. The most current version of the Toolkit is available as part of a collection of COVID-19-related resources on the NVAHA website at: <https://nvaha.org/covid-19-resources-updates/>. Additional COVID-19-related *legal* resources are available from LSNV at: <http://www.lsnv.org/coronavirus-covid-19/>.

## **Eviction Prevention & Racial Equity**

In Virginia and nationwide, Black and Latinx households face a disproportionate risk of eviction and COVID-19-related housing instability.<sup>1,2</sup> This risk both stems from and threatens to exacerbate disparities in COVID-19 infections and outcomes, and the economic impact of the pandemic. It is important for advocates, policymakers and providers to understand the current eviction crisis as not only a humanitarian and public health issue, but a racial equity issue. If we do not take action to prevent the coming wave of evictions, it will harm us all, but the greatest harm will be experienced by Black and brown residents – residents who are already suffering disproportionately from the COVID-19 pandemic.

### **About NVAHA**

The mission of the Northern Virginia Affordable Housing Alliance is to promote healthy, sustainable and equitable communities that meet the diverse housing needs of Northern Virginia residents through policy advocacy, education and research.

### **About LSNV**

Legal Services of Northern Virginia is the largest legal aid organization in Northern Virginia, helping thousands of clients each year in civil legal matters. LSNV partners closely with other legal aid organizations, state and local bar associations, as well as the courts to serve the region's low-income and neediest populations.

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<sup>1</sup> "A Triple Pandemic? The Economic Impacts of COVID-19 Disproportionately Affect Black and Hispanic Households," Joint Center for Housing Studies at Harvard University, July 7, 2020. <https://www.jchs.harvard.edu/blog/a-triple-pandemic-the-economic-impacts-of-covid-19-disproportionately-affect-black-and-hispanic-households/>

<sup>2</sup> "Revisiting COVID-19, Evictions, and Racial Equity," Housing Opportunities Made Equal of Virginia, Inc., April 8, 2020. <https://homeofva.org/revisiting-covid-19-evictions-and-racial-equity/>

# Federal Action

## What's been done?

### ✓ **CDC Eviction Moratorium.**

The U.S. Centers for Disease Control and Prevention (CDC) issued a moratorium on evictions for non-payment of rent from Sept. 4, 2020 – June 30, 2021. The moratorium applies if each adult household member listed on the lease provides the landlord with a **signed declaration** stating:

- The tenant used best efforts to obtain all available government rental assistance
- The tenant expects to earn no more than \$99,000 (\$198,000 for a joint return) in 2020, was not required to report any income to the IRS in 2019, **OR** received a stimulus check
- The tenant is unable to pay rent due to income loss or extraordinary out-of-pocket medical expenses
- The tenant will use best efforts to make timely partial rent payments, taking into account other expenses which must be paid
- The tenant will become homeless or need to double-up with another household if evicted

The CDC eviction moratorium offers only **limited, short-term** protection to some tenants. Additional protections are needed to ensure long-term housing stability in Northern Virginia and communities across the U.S.

- ### ✓ **Emergency Rental Assistance (ERA) Program.**
- The Consolidated Appropriations Act of 2021 established the \$25 billion ERA program. Funds from this program will be provided directly to states to assist households experiencing COVID-19-related housing instability. Virginia will receive over \$500 million under this program.

## What needs to be done?

### **Strengthen the CDC moratorium.**

The order should be strengthened to apply to all tenants facing eviction for non-payment of rent (removing the eligibility and declaration requirements), and all stages of the eviction process (not just execution of writs).



**Ease restrictions on ERA eligibility.** Current eligibility requirements pose barriers to households with non-traditional lease agreements and individuals

who were experiencing financial hardship prior to the COVID-19 pandemic.

### **Work with lenders to offer mortgage**

**forbearance.** The federal government should work with financial institutions to arrange mortgage forbearance for

multifamily property owners with public and privately-backed mortgages, on the condition that property owners provide rent forbearance with flexible repayment terms to tenants.



## State Action

### What's been done?

- ✓ **Virginia Rent Relief Program (RRP).** In June 2020, the state launched its rental assistance program using federal CARES Act funding. In 2021, this program will continue using ERA funds. However, due to restrictions on the use of ERA funds, the program will now solely serve renters and will no longer provide assistance to mortgage holders. As of Jan. 1, 2021, Landlords are required to apply for RRP assistance on behalf of tenants facing eviction for non-payment of rent who have not applied to the program on their own. **(Note: Because Fairfax County accepted a direct allocation of ERA funds, landlords and tenants in Fairfax County are no longer eligible for RRP funds and need to apply for assistance through a separate, County-run program. See p. 8 for details.)**
- ✓ **14-day notice.** As of Nov. 9, all landlords are required to give tenants 14 days' notice (increased from 5 days' notice) before filing an eviction suit for non-payment of rent. Landlords who own more than four units must also offer tenants the option of entering a repayment plan with no late fees.
- ✓ **60-day continuance & expansion of legal services.** The state, with help from a matching grant from IKEA, allocated \$4 million to expand access to legal services for Virginians facing eviction. Tenants facing eviction for non-payment of rent who lost income due to COVID-19 can also request a 60-day continuance in their case.
- ✓ **Protection from discrimination based on payment history.** As of Nov. 9, landlords cannot deny applicants for tenancy based solely on the applicant's payment history or an eviction for non-payment of rent that occurred between March 12, 2020 and the end of the COVID-19 public health emergency. Unfortunately, the burden of reporting discrimination falls on the tenant, and the window to report a violation is very short.

### What needs to be done?

- **Make permanent changes to “pay-or-quit” notices.** Many tenants move out of their homes after receiving a pay-or-quit notice because these notices are written in language that is hard to understand (especially for non-native English speakers). The state should change the language landlords must use in pay-or-quit notices, so it is clear the tenant can stay in their home through the end of the eviction process. The state should also make the 14-day notice period permanent (this change is set to expire July 1, 2022).
- **Right to counsel.** Tenants facing eviction who have access to legal representation are more likely to remain in their homes, and have their case records sealed so they do not face future barriers to housing access.<sup>1</sup> The state should institute a right to counsel and fund public representation for tenants facing eviction.
- **Stronger protection from discrimination based on eviction/payment history.** Denial of applicants for tenancy based solely on payment history or a past eviction for non-payment of rent creates a cycle of housing insecurity. The state can break this cycle by implementing protections that extend beyond the COVID-19 public health crisis, and by sealing or automatically expunging eviction records after a certain period of time.
- **Remove restrictions on “right of redemption.”** The Virginia General Assembly recently expanded the “right of redemption” (tenants' ability to avoid eviction by zeroing out their balance at any point in the eviction process). However, smaller landlords (with four or fewer rental units) are still required to allow tenants to avoid eviction by zeroing out their balance only once every 12 months.

<sup>1</sup> “Key Studies and Data About How Legal Aid Improves Housing Outcomes,” The Justice in Government Project at American University, July 3, 2020. <https://www.american.edu/spa/jpo/toolkit/upload/housing-7-30-19.pdf>

## Local Action: Emerging Best Practices

- ✓ **Develop cross-sector collaborations to prevent evictions.** Many Northern Virginia jurisdictions have formed cross-agency eviction prevention response teams that include representatives from multiple local government agencies, and human service and legal aid organizations. These teams work together to support individuals at-risk of eviction, and connect them to rental assistance, information on the CDC moratorium and other resources, while avoiding duplication of outreach efforts. Another emerging best practice is partnering with local public school systems to provide information on rental assistance and other resources to students and their families. Going forward, local jurisdictions should continue to innovate through the formation of new partnerships and the use of new technologies (e.g., WhatsApp, SMS messaging) to share vital information about rental assistance and the CDC moratorium with vulnerable residents.
- ✓ **Engage Sheriffs' Departments to support residents.** The Eviction Prevention Task Force in the City of Alexandria and the Fairfax County Task Force both include representatives from the local Sheriffs' Departments. These representatives help local government staff and human service providers connect residents facing active writs of eviction to emergency services. To protect public health and keep residents safely housed, Sheriffs' Departments can also set a policy not to evict households with members who were exposed to COVID-19 or have COVID-19 like symptoms.
- ✓ **Institutionalize positive relationships with landlords.** The COVID-19 pandemic highlights the value of developing good relationships between government staff and landlords to foster collaboration and cooperation that can act as a bridge in times of crisis. The City of Alexandria has initiated the following activities for engaging landlords that serve as a model for best practices: organize staff visits to meet property owners and managers, provide impartial mediation and technical assistance to landlords and tenants, establish relationships with landlord attorneys, and organize and promote educational seminars on topics of interest to property owners and managers. During the pandemic, these strategies have been particularly effective in notifying landlords about the CDC moratorium and changes in Virginia's landlord-tenant laws, as well as organizing trainings for landlords on how to comply with new laws and access rental assistance on behalf of tenants. It is critical that local jurisdictions support these outreach efforts to ensure collaboration to keep residents housed during the public health emergency.
- ✓ **Provide economic relief for landlords.** Many Northern Virginia jurisdictions have offered relief to non-profit landlords with publicly-backed loans. For example, Arlington County allowed its borrowers to defer 2019 residual receipt loan payments, and Fairfax County offered financial assistance to properties with Fairfax County Redevelopment and Housing Authority financing. However, many owners of small, market-affordable properties without publicly-backed loans or mortgages are at-risk of foreclosure due to lost rental income. Mitigation strategies such as property tax abatement for landlords who agree not to evict tenants for non-payment of rent for the duration of the public health emergency could help these landlords stay afloat.
- ✓ **Use data on eviction filings and issuance of writs to guide equitable vaccine distribution.** Zip codes and multifamily properties with high rates of eviction filings and issuance of writs face a corresponding increase in the risk of community spread as households may be forced to double-up or move into congregate shelter. As vaccine availability in our region grows, these at-risk communities should be prioritized in outreach and distribution efforts. For example, local health departments can partner with landlords and community-based organizations to share information on vaccine eligibility, and dates and times of vaccination clinics. Jurisdictions may also consider investing in a mobile vaccination unit to improve access in neighborhoods that lack health care facilities and public transit.

## What Landlords Need to Know Before Filing an Eviction Suit

1. **You CANNOT evict tenants for non-payment of rent before June 30, 2021** if you receive a signed declaration stating that they meet the criteria for coverage under the CDC eviction moratorium (see page 3).
2. **You MUST apply for rental assistance on behalf of tenants!** As of **Jan. 1, 2021** landlords are **required** to apply to the state Rent Relief Program (RRP) on behalf of tenants facing eviction for non-payment of rent who have not applied to the program on their own. Learn more and apply:  
<https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Pages/rentrelief.aspx>.  
**(Note: Because Fairfax County accepted a direct allocation of ERA funds, landlords and tenants in Fairfax County are no longer eligible for RRP funds and need to apply for assistance through a separate, County-run program. See page 8 for details.)**
3. **You MUST offer tenants a repayment plan.** As of November 9, 2020 state law requires landlords who own more than four units (or more than 10% interest in more than four units) to offer tenants a repayment plan *before* filing an eviction suit. This bill also extends the period between issuing a pay-or-quit notice and filing an eviction suit from 5 to 14 days for all landlords (regardless of the number of units they own). The bill will remain in effect through July 1, 2021.

Below are some common elements of a successful repayment plan identified by Northern Virginia landlords:

- ✓ Landlord agrees not to evict for non-payment or charge late fees through the end of the public health emergency (landlord may still evict for other gross infractions of the lease terms).
  - ✓ Landlord agrees not to increase rent through the end of the public health emergency.
  - ✓ Residents must inform the landlord of financial hardship that is COVID-19-related. (Self-declaration accepted in lieu of third-party documentation.)
  - ✓ Encourage residents who can make partial rent payments to do so.
4. **Collaborate to access rental assistance.** Tenants who are uncomfortable applying for state or local government assistance may be able to receive assistance from local faith communities or other non-profit providers. Working one-on-one with tenants to help them identify and access the services they need is the best way to keep families secure and housed, and to mitigate the effects of the COVID-19 pandemic on your rental income.

## What Tenants Need to Know

- 1. Your landlord CANNOT evict you for non-payment of rent before June 30, 2021, if you submit a signed declaration stating:**
  - You used best efforts to obtain all available government rental assistance
  - You expect to earn no more than \$99,000 (\$198,000 for a joint return) in 2020, were not required to report any income to the IRS in 2019, **OR** you received a stimulus check
  - You are unable to pay rent due to income loss or extraordinary out-of-pocket medical expenses
  - You will use best efforts to make timely partial rent payments, taking into account other expenses which must be paid
  - You will become homeless or need to double-up with another household if evicted
- 2. Your landlord CANNOT evict you without following a legal process** (see page 9). After June 30, 2021 (or if you do not submit a signed declaration attesting to the above statements), your landlord **MUST** give you **14 days' notice** before filing an eviction suit. If your landlord owns more than 4 units, they must also offer you a repayment plan without late fees.
- 3. Starting Jan. 1, 2021**, if you are facing eviction for non-payment of rent and have not applied to the state Rent Relief Program (RRP) your landlord is **required** to apply on your behalf. (**Note: As of Feb. 15, landlords and tenants in Fairfax County are no longer eligible for RRP funds and need to apply for assistance through a separate, County-run program. See page 8 for details.**)
- 4. If you are covered by the CDC eviction moratorium you still owe your landlord rent.** See page 8 for a list of available rental assistance resources.
- 5. If you are facing an eviction case in court and you lost income due to COVID-19 you may be able to receive a 60-day continuance in your case.**
- 6. If you are facing an eviction case (“unlawful detainer”) in court and have questions or need legal representation contact Legal Services of Northern Virginia:**

**Phone:** 703-778-6800 (Mon – Thurs, 9:30am – 12:30pm & 1:30 – 3:30pm)

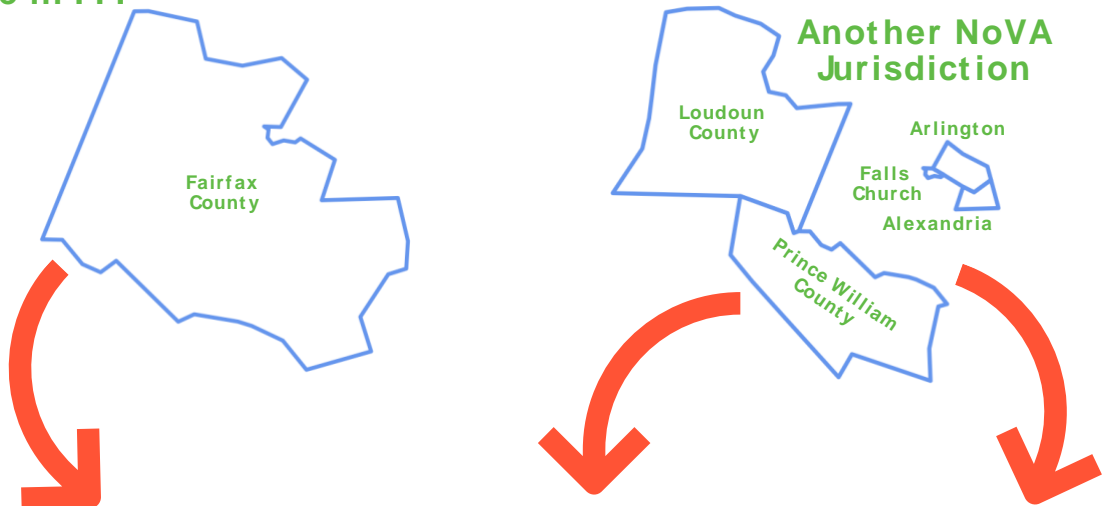
**Website:** [www.LSNV.org](http://www.LSNV.org)



## Where should I go to access rental assistance?

There are many resources available to help Northern Virginia residents pay their rent and avoid eviction during the COVID-19 pandemic. Use this graphic to find the rental assistance option that is the best fit for you.

I live in . . .



### Call CSP

Fairfax County residents are not eligible for the state RRP program, BUT can access federal rental assistance funds by calling Coordinated Services Planning (CSP) at: 703-222-0880. OR your landlord can apply on your behalf by visiting: <https://www.fairfaxcounty.gov/health-humanservices/eviction-prevention>.

If you are not eligible for federal funds (e.g., you do not have a lease or did not lose income due to COVID), alternative assistance is available from the County and the non-profit sector. Call CSP for help.

### I am eligible for the state Rent Relief Program (RRP).

Check eligibility here: <https://dmz1.dhcd.virginia.gov/RMRPEligibility/>



### Apply!

Eligible residents can receive up to 15 months of assistance through RRP. Apply online: <https://applications.dev.al.us/login/applications>

Or by phone: 703-962-1884

Your landlord can also apply on your behalf at: [VirginiaHousing.com/RMRP](https://VirginiaHousing.com/RMRP)

### I am NOT eligible for the state Rent Relief Program (RRP).

Check eligibility here: <https://dmz1.dhcd.virginia.gov/RMRPEligibility/>



### Other resources are available

If you are not eligible for the state program (e.g., you do not have a lease or did not lose income due to COVID), other funding sources are available.

- Alexandria residents call: 703-746-5700
- Arlington residents call: 703-228-1300
- Falls Church residents call: 703-248-5005
- Loudoun residents call: 703-777-0420
- Prince William County residents call: 703-792-7538



# NAVIGATING THE EVICTION PROCESS DURING COVID-19

## 1 NOTICE



If you miss a rent payment, your landlord is **required** to give you a written notice (called a "Pay or Quit" notice) **before** filing an eviction suit. **You do not have to move out after receiving this notice.** Under current state law, your landlord **must wait at least 14 days** after giving you this notice to file an eviction suit. It is a warning that your landlord is planning to take legal action. If you live in a building with **more than 4 units**, your landlord also cannot evict you without first offering a repayment plan. If you agree to a repayment plan, you may be eligible for assistance from the state or your local jurisdiction to help you make payments.

## 2 SUMMONS



If you receive a summons, **you must appear in court** at the date & time specified. Due to the COVID-19 pandemic, you may be able to appear remotely. **If you do not appear in court on this date, there will be a default judgement for the landlord.**

## 3 FIRST RETURN



The date listed on the summons is the "first return" date. The first return is your opportunity to dispute the case and request a trial. If you lost income due to COVID-19, you may be able to request a 60-day delay in your case at this time. **If you do not appear in court on this date, there will be a default judgement for the landlord.**

## 4 TRIAL DATE



The trial is your opportunity to present evidence in your defense, including papers, receipts and witnesses. For advice on your case or to seek representation contact Legal Services of Northern Virginia at: **703-778-6800**.

## 5 APPEAL PERIOD



If the judge rules in favor of your landlord, **you cannot be evicted for at least 10 days** (even if the landlord is awarded immediate possession). During this period, you can appeal the ruling. If the judge ruled you owe your landlord money and you appeal the ruling, you will need to pay a writ tax and appeal bond (usually equal to the rent you owe, late fees, attorney fees, and any other damages).

## 6 WRIT OF POSSESSION



If the judge rules in favor of your landlord, the landlord will issue a "writ of eviction" to the Sheriff's Office. The Sheriff has 30 days from the time the writ is issued to post a notice of eviction on your door. The Sheriff must give you **at least 72 hours** from the time the notice is posted to vacate the premises, but usually will allow 7-10 days.

## 7 EVICTION



After 72 hours (or the amount of time listed on the eviction notice) the eviction can take place. It is best to pack-up and move your belongings before this time. If you do not have a place to live, contact your local Department of Social Services. If your landlord locks you out of your home, or otherwise attempts to evict you without following the steps above, you may be able to file an "Unlawful Exclusion" suit. Contact: **1-866-LEGL-AID** or **1-833-NoEvict**.



## **Health & Wellness Resources**

### **Support for Survivors of Domestic Violence**

Survivors of domestic and intimate partner violence face heightened risk during the COVID-19 pandemic due to increased stress and financial strain, compounded by stay-at-home orders. If you are a survivor of domestic violence, you may be able to terminate your obligations under your lease or take over tenancy if someone you live with was excluded by a court order. For more information, contact the National Domestic Violence Hotline at **1-800-799-7233** or contact the domestic violence hotline in your jurisdiction:

- ✓ City of Alexandria: 703-746-4911
- ✓ Arlington County: 703-237-0881
- ✓ Fairfax County: 703-360-7273
- ✓ Loudoun County: 703-777-6552
- ✓ Prince William County (ACTS Domestic Violence Services): 703-221-4951

### **Child Abuse & Neglect**

In addition to the added risks described above, identifying cases of child abuse and neglect is more difficult due to school closures, as children no longer have contact with educators, who are mandatory reporters. To report cases of child abuse and neglect contact:

- ✓ City of Alexandria: 703-746-5800
- ✓ Arlington County: 703-228-1500
- ✓ Fairfax County: 703-324-7400
- ✓ Loudoun County: 703-771-5437
- ✓ Prince William County: 703-792-4200
- ✓ State of Virginia: 1-800-552-7096

### **Mental Health Resources**

If the stress and financial strain of the COVID-19 pandemic are causing you or your child to experience a mental health crisis contact:

- ✓ Crisis Link Hotline: 703-527-4077 (or text CONNECT to 855-11)