

# TENANT ASSISTANCE PROJECT

## HANDOUT

### REPRESENTING TENANTS FACING EVICTION IN THE COVID-19 PANDEMIC: CARES Act/Governor's Executive Order No. 20-07 Summaries & Reasonable Accommodation Requests for Immuno-Compromised Tenants

#### CARES Act:

- On March 27, 2020, the president signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law.
- A moratorium is a temporary ban of a certain activity. In this case, the CARES Act restricts landlords of certain "covered properties" from filing new eviction actions for non-payment of rent for 120 days.
- The CARES Act eviction moratorium only applies to four types of properties:
  - Federal housing rental programs covered by the Violence Against Women Act (VAWA);
    - the low-income housing tax credit (LIHTC),
    - public housing,
    - Section 8 Housing Choice Voucher program,
    - project-based Section 8 housing,
    - Section 202 supportive housing for the elderly,
    - Section 811 supportive housing for persons with disabilities,
    - Section 236 multifamily rental housing,
    - Section 221(d)(3) Below Market Interest Rate housing,
    - HOME Investment Partnerships,
    - Housing Opportunities for Persons with AIDS,
    - McKinney-Vento Act programs, and
    - USDA Rural Development.
  - Properties with federally backed mortgage loans
    - made, insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the federal government, or
    - purchased or securitized by the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae).
- NOTE: It is the **landlord's** responsibility to prove to the court that their housing does not have a federally backed mortgage.
  - Attorney cannot testify on behalf of the landlord– (1) hearsay; (2) NEB. CT. R. § 3-503.7 – forbids the attorney acting as a witness unless the issue is uncontested
- How can we verify whether or not the property is covered???
  - <https://nlihc.org/federal-moratoriums>
  - [https://docs.google.com/spreadsheets/d/1\\_b\\_8q4nFIgkjq\\_fwvdSsdIUXmhIb1LCPYqzID9dbP4g/edit#gid=527788072](https://docs.google.com/spreadsheets/d/1_b_8q4nFIgkjq_fwvdSsdIUXmhIb1LCPYqzID9dbP4g/edit#gid=527788072)
  - <https://nhpd.preservationdatabase.org/Data> (requires registration - but superfast to sign up)

#### Governor Rickett's Executive Order No. 20-07 (expires 5.31.20)

- Delays eviction trials for unpaid rent until after May 31, 2020, only if the eviction is based upon non-payment of rent that "accrued" on or after March 13, 2020 and the tenant can show to the landlord (or the Court!), with documentation or other evidence, that the tenant:

- Has a substantial loss of income related to COVID-19, such as job loss, reduction in hours of work, or their place of employment has closed; or
- Has missed work to care for a relative or child because their school or childcare facility closed, or the childcare has limited attendance, due to COVID-19.

Waives the requirement that Courts must hear eviction trials for non-payment of rent within 10 to 14 days after the issuance of a summons. This empowers courts to delay eviction trials for non-payment of rent

### **Public Health, Equity, Etc.**

NEB. REV. STAT. §76-1403 – Our community’s public health is served by the writ to not be served during a pandemic

### **Fair Housing - Reasonable Accommodation Request for Immuno-Compromised Tenants**

If tenant has a disability (physical or mental impairment that substantially affects their daily life activities), and they need landlord to make an exception or change to their rules, policies, or practices, due to that disability, a tenant may request a “reasonable accommodation” under the Federal Fair Housing Act, and substantially equivalent state and local fair housing laws. *See* 42 U.S.C. § [3604](#); NEB. REV. STAT. § [20-318](#); LMC § [11.06.020](#).

**For example, if the tenant has an underlying disability that makes them more susceptible to the consequences of contracting COVID-19 (e.g. death), a tenant can ask for a reasonable accommodation from their landlord in the form of a stay of the eviction process in order for the tenant to follow CDC guidelines and local directed health measures to isolate themselves/shelter-at-home.**

#### How to Request a Reasonable Accommodation:

1. Help tenant complete the fill-in-the blank Reasonable Accommodation Letter (included in the provided Reasonable Accommodation) Packet to their landlord/landlord’s attorney, filling in all the blank spaces. (PLEASE PRINT CLEARLY)
2. **Save Evidence:** Before giving the letter to the landlord/landlord’s attorney, take a picture of the letter, in order to preserve it as evidence.
3. Give the written Reasonable Accommodation Letter to the landlord/landlord’s attorney.

If the landlord refuses to acknowledge or allow the reasonable accommodation, that in itself could be a fair housing violation and the tenant has the right to file an administrative complaint of housing discrimination within one year of the date of harm. NOTE: The Fair Housing Center (FHC) can assist tenants in filing this complaint; simply help the tenant follow the steps below:

1. Complete the “*Housing Complaint Questionnaire*”
2. Fill-in all the blanks on the *Authorization and Waiver* forms, sign and date and *Designation of Personal Representative* form
3. Submit the completed paperwork to the FHC, by mail, email or fax, along with a copy of Reasonable Accommodation request. (Fair Housing Center, 2401 Lake St., Omaha, NE 68111, email: [joe@fhasinc.org](mailto:joe@fhasinc.org) or [germaineg@fhasinc.org](mailto:germaineg@fhasinc.org), or fax (402) 934-7928
4. Tenant should contact the Fair Housing Center immediately after the hearing at (402) 934-6675 to get the complaint filed
  - a. *If* the complaint is filed right away with the Lincoln Commission on Human Rights, LCHR staff can work to determine if the Commission can intervene and request a stay of the eviction while the fair housing complaint is pending/processing.