

**SECOND AMENDMENT TO ORDER DECLARING A LOCAL JUDICIAL EMERGENCY TO EXTEND DURATION FOR AN ADDITIONAL THIRTY DAYS AND TO DEFINE THE PARAMETERS AND LIMITS OF THIS JUDICIAL EMERGENCY**

WHEREAS, on July 30, 2021, this Court issued the attached Order, as amended on August 2, 2021, declaring a local judicial emergency due to the COVID-19 public health emergency and cyberattack on DeKalb County's Tenant Landlord Assistance Coalition ("TLAC") and adopted the Center for Disease Control's ("CDC") national eviction moratorium as the parameters for such local judicial emergency. (*See Exhibit A*).

WHEREAS, since issuance of this Court's initial July 30, 2021 Order, the CDC extended and modified its moratorium, which is currently set to expire on October 3, 2021 based upon its express terms. (*See Exhibit B*, a copy of the current CDC moratorium effective August 3, 2021).

WHEREAS, on August 26, 2021, the United States Supreme Court vacated a stay on a District Court ruling that vacated the CDC moratorium, rendering the CDC moratorium unenforceable.<sup>1</sup>

WHEREAS, while the July 30, 2021 local Judicial Emergency Order, as amended, incorporated the CDC's moratorium parameters due to common intent, the July 30, 2021 local Judicial Emergency Order, as amended, was authorized and issued pursuant to O.C.G.A. § 38-3-61, as stated by its express terms.

WHEREAS, local judicial emergency orders are authorized by O.C.G.A. § 38-3-60 *et seq.*

WHEREAS, as allowed by O.C.G.A. §§ 38-3-60 and 38-3-61, an authorized judicial official, which includes a chief judge of a Georgia superior court judicial circuit, may declare a local judicial emergency for a variety of reasons, including a public health emergency under O.C.G.A. § 31-12-1.1 or such other serious emergency when the emergency substantially infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or deadlines imposed by court order or statute.

WHEREAS, a chief judge of a Georgia superior court judicial circuit declaring a local judicial emergency shall enter upon his or her own motion, or upon motion by an interested person, an order declaring the emergency and such order must include specific findings as set forth in O.C.G.A. § 38-3-61(a).

WHEREAS, O.C.G.A. § 38-3-62 defines the scope of judicial emergency orders to include the authority to suspend, toll, extend or otherwise grant relief from deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders.

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<sup>1</sup>*Alabama Association of Realtors, et al. v. Department of Health and Human Services, et al. on Application to Vacate Stay*, No. 21A23 (United States Supreme Court, August 26, 2021).

WHEREAS, under O.C.G.A. § 38-3-61, an order declaring the existence of a local judicial emergency shall be limited to no more than 30 days, however, that order may be modified or extended for no more than two periods not exceeding thirty (30) days each.

WHEREAS, this Court finds that there is still a public health emergency due to COVID-19 and a serious emergency due to the cyberattack on DeKalb County's TLAC in the Stone Mountain Judicial Circuit and in DeKalb County, Georgia which necessitates the extension and modification of the Local Judicial Emergency Order entered on July 30, 2021, as amended on August 2, 2021.

WHEREAS, the dramatic increase of positive COVID-19 cases, hospitalizations and cases involving novel variants, including the Delta variant and other variants in DeKalb County, authorizes a 30-day extension and modification of the Court's July 30, 2021 local Judicial Emergency Order, as amended.

WHEREAS, the COVID-19 public health emergency continues to afflict the citizens who reside, do business in and are otherwise subject to the jurisdiction of the Stone Mountain Judicial Circuit. As of August 23, 2021, the state is reporting that in the last two weeks, 4,464 new cases of COVID-19 were detected in DeKalb County and 110,618 cases were detected in Georgia.<sup>2</sup>

WHEREAS, as of August 25, 2021, DeKalb County has 67,317 confirmed or reported COVID-19 cases, 1,021 confirmed deaths resulting from COVID-19 and the cases per 100,000 in the last two weeks have increased to 465. On July 28, 2021, there were only 83 cases per 100,000 in the previous two weeks and 995 confirmed COVID-19 deaths in DeKalb County, Georgia.

WHEREAS, DeKalb County was the victim of an international criminal cyberattack on March 24, 2021, which is the subject of an on-going federal law enforcement investigation. This cyberattack eliminated the County's ability to address the ongoing COVID-19 public health emergency through its TLAC. Due to the attack and the ongoing federal investigation, the County no longer has access to most of the pending applications, emails and/or documents submitted to TLAC prior to March 24, 2021.

WHEREAS, the TLAC program was developed by DeKalb County stakeholders, including the DeKalb County Magistrate Court, to financially assist renters in danger of homelessness, including those currently subject to dispossessory proceedings in DeKalb County Magistrate Court. After the attack, tenants subject to dispossessory proceedings and landlords authorized under the law to initiate dispossessory proceedings were unable to have their applications for TLAC relief processed immediately, as they would have but for the attack.

WHEREAS, the TLAC program re-opened on June 21, 2021, and as of August 28, 2021, over 1,131 applicants have been helped with rental and utility payment assistance with payments made directly to landlords and/or utility companies, who have received much needed rental payments to ease the financial burden of the CDC eviction moratoria.

WHEREAS, DeKalb County received 31 million dollars from the federal government in the form of the Emergency Rental Assistance 1 and 2 grants to assist its citizens who are facing eviction

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<sup>2</sup> <https://dph.georgia.gov/covid-19-daily-status-report>

and to reduce the commensurate financial burden on landlords who have been unable to evict residential tenants who qualified under the CDC moratoria.

WHEREAS, in the past week and into the foreseeable future, TLAC has had to become a partially remote operation because of COVID-related issues.

WHEREAS, the rate of community COVID-19 spread in combination with the hampering of relief efforts caused by the pandemic and criminal cyber-attack, constitute a serious emergency and public health emergency under O.C.G.A. §§ 38-3-60 and 31-12-1.1.

WHEREAS, under O.C.G.A. § 38-3-60 *et seq.*, the international criminal cyber-attack and the dramatic increase in positive COVID-19 cases and hospitalizations have created a local emergency which infringes upon the normal functioning of the judicial system and the ability of litigants and others to avail themselves of the judicial system. This emergency negatively impacts the ability of (1) litigants and others to meet schedules or deadlines imposed by court order or statute; and (2) litigants to resolve dispossessory actions using the process and funds available through the TLAC program.

WHEREAS, regardless of the emergencies posed by both the cyber-attack and the direct impact of the pandemic on program operations, TLAC has been accelerating its rate of delivery of assistance to landlords, tenants, and utility providers. In total, the program has delivered assistance to 1,131 households, amounting to \$5,743,415.44 in assistance. Approximately forty percent (40%) of that assistance was delivered since the initial local Judicial Emergency Order went into effect on July 30, 2021.

WHEREAS, as of August 3, 2021, the TLAC program is now offering affected landlords payment of one hundred percent (100%) back rent for twelve months and prospective rental payments for three months in order to settle dispossessory actions pending in the Magistrate and State courts of DeKalb County.

WHEREAS, the TLAC program and the funds provided to tenants and landlords to settle pending lawsuits is having the effect of reducing the backlog of dispossessory cases in the Stone Mountain Judicial Circuit thereby avoiding evictions, homelessness, and potentially increased levels of infectivity of COVID-19 which can occur as a by-product of evictions.

WHEREAS, as of August 23, 2021, the TLAC program has 2,640 pending applications and needs more time to ensure that landlords and tenants receive the remaining federal rental and utility payment assistance as set forth in the TLAC program and applicable federal law and guidance.

WHEREAS, the United States Treasury adjusted the grant requirements on August 25, 2021 to enable further acceleration of the rate at which assistance can be distributed to tenants and landlords.

WHEREAS, to make and fully implement changes to the TLAC program to take advantage of these adjusted grant requirements, and to continue to make substantial payments to landlords and tenants affected by this public health and serious emergency, at least thirty (30) additional days are needed to prevent more potential evictions, avoid increased levels of homelessness and place

much needed federal funds into the hands of those in most need to wit: landlords, tenants, and utility providers.

WHEREAS, it is the full intent of this Court to continue to closely evaluate circumstances necessitating the modification and extension of this local judicial emergency in DeKalb County and the Stone Mountain Judicial Circuit.

NOW THEREFORE, IT IS ORDERED AND DECLARED that pursuant to O.C.G.A. § 38-3-60 *et seq.*, the July 30, 2021 Order, as amended on August 2, 2021, declaring a Local Judicial Emergency is amended to extend its duration for an additional thirty (30) days beyond its initial duration and modified to define its parameters and limits.

**Thus, in order to protect the health, safety, and liberty of all citizens in this Judicial Circuit, and under the authority granted by Part 2 of Article 3 of Chapter 3 of Title 36 of the Official Code of Georgia, the undersigned hereby modifies and extends the July 30, 2021 Local Judicial Emergency in the Stone Mountain Judicial Circuit in DeKalb County, Georgia. This Court hereby adopts and incorporates the attached Exhibit C into this Order as if fully set forth herein. Exhibit C defines the parameters and limits of this modified and extended judicial emergency. Accordingly, the authorization to evict in any Order, any eviction date set forth in any DeKalb County Writ of Possession, or any other Order setting an eviction date pursuant to O.C.G.A. § 44-7-55 or other applicable law for any “Covered person” from any “Residential property,” as those terms are defined in Exhibit C, in DeKalb County is hereby tolled and stayed while this Judicial Emergency Order is in effect. Such temporary tolling of and stay in residential property eviction deadlines, schedules, and effective dates shall apply to all affected classes of courts in the Stone Mountain Judicial Circuit.**

**This Judicial Emergency is effective as of August 30, 2021 at 5:01 pm and shall terminate at 5:00 pm on September 29, 2021 unless otherwise extended or terminated as allowed by law.**

Should the state of emergency extend beyond the period indicated above or should the nature of the emergency otherwise require modification, a determination of available alternative remedies for the conduct of court business will be made as necessary, and a corresponding order will be entered and distributed in accordance with Georgia law.

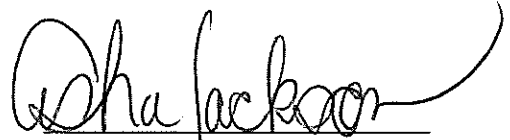
IT IS FURTHER ORDERED, if any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

IT IS FURTHER ORDERED, pursuant to O.C.G.A. § 38-3-63, that notice and service of a copy of this Order shall immediately be sent to the Chief Justice of the Georgia Supreme Court, the Clerks of the Georgia Supreme Court and Georgia Court of Appeals, and all Judges and Clerks in the Stone Mountain Judicial Circuit, such service to be accomplished through means to assure expeditious receipt, which include electronic means; and

IT IS FURTHER ORDERED that the Sheriff of DeKalb County shall post this Order on her public notification site and in the courthouse; and

IT IS FURTHER ORDERED that notice shall also be sent to the media, the State Bar of Georgia, and the officials and entities listed below and shall constitute sufficient notice of the issuance of this Order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 30<sup>th</sup> day of August, 2021.



The Honorable Asha F. Jackson  
Chief and Administrative Judge  
DeKalb County Superior Court  
Stone Mountain Judicial Circuit

cc: Michael L. Thurmond, Chief Executive Officer, DeKalb County, Georgia  
Robert Patrick, Commissioner for District 1, DeKalb County, Georgia  
Jeff Rader, Commissioner for District 2, DeKalb County, Georgia  
Larry Johnson, Commissioner for District 3, DeKalb County, Georgia  
Stephen R. Bradshaw, Commissioner for District 4, DeKalb County, Georgia  
Mereda Davis-Johnson, Commissioner for District 5, DeKalb County, Georgia  
Edward C. "Ted" Terry, Commissioner for Super District 6, DeKalb County, Georgia  
Lorraine Cochran-Johnson, Commissioner for Super District 7, DeKalb County, Georgia  
Melody M. Maddox, Sheriff, DeKalb County, Georgia  
William A. Taylor, Marshal, DeKalb County, Georgia  
Steve Gottlieb, Esq., Executive Director of Atlanta Legal Aid Society  
Mike Williams, Esq., Atlanta Apartment Association  
Pete Walker, Director of the DeKalb County Housing Authority  
Zachary Williams, Chief Operating Officer, DeKalb County, Georgia  
La'Keitha Carlos, Chief of Staff, DeKalb County Chief Executive Officer  
Kwasi Obeng, Chief of Staff, DeKalb County Board of Commissioners  
John Matelski, Director of IT Department, DeKalb County, Georgia  
Viviane H. Ernstes, County Attorney, DeKalb County, Georgia

# **EXHIBIT A**

**ORDER DECLARING A LOCAL JUDICIAL EMERGENCY**

**STONE MOUNTAIN JUDICIAL CIRCUIT**

**21AP1211**

WHEREAS, the COVID-19 public health emergency continues to afflict the citizens who reside, do business in and are otherwise subject to the jurisdiction of the Stone Mountain Judicial Circuit. As of July 23, 2021, the state is reporting that in the last two weeks, 496 new cases of COVID-19 were detected in DeKalb County and 11,878 cases were detected in Georgia.<sup>1</sup> This sharp increase in cases in Georgia<sup>2</sup> and across the southern region of the United States, is unlike anywhere else in the nation.<sup>3</sup> The increased number of virus mutations and variants have the potential to compound the already prevalent adverse health impact on the citizens of DeKalb County.

WHEREAS, the Center for Disease Control (“CDC”) national eviction moratorium is set to expire, and the State of Georgia has not imposed an eviction moratorium. Without an eviction moratorium, many DeKalb County residents face imminent dispossession of their residences due to widespread arrearages owed to landlords. It is estimated that DeKalb County tenants owe approximately \$50,000,000.00 in rent arrearage to landlords. Many of the landlords owed will be legally entitled to proceed with dispossessory actions once the eviction moratorium is lifted. Evictions can have long-lasting consequences for families and individuals, potentially disrupting school and education, worsening health, displacing neighborhood networks of support, and making it more difficult to find safe, affordable housing in the future. Perhaps most importantly, a lack of stable housing directly increases the risk of contracting COVID-19.<sup>4</sup>

WHEREAS, DeKalb County was the victim of an international criminal cyberattack on March 24, 2021, which is the subject of an on-going federal law enforcement investigation. This cyberattack eliminated the County’s ability to address the ongoing COVID-19 public health emergency through its Tenant Landlord Assistance Coalition (“TLAC”). Due to the attack and the ongoing federal investigation, the County no longer has access to most of the pending applications, emails and/or documents submitted to TLAC prior to March 24, 2021.

WHEREAS, the TLAC program was developed by DeKalb County stakeholders, including the DeKalb County Magistrate Court, to financially assist renters in danger of homelessness, including those currently subject to dispossessory proceedings in DeKalb County Magistrate Court. After the attack, tenants subject to dispossessory proceedings and landlords authorized under the law to initiate dispossessory proceedings, were unable to have their applications for TLAC relief processed immediately, as they would have but for the attack.

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<sup>1</sup> <https://dph.georgia.gov/covid-19-daily-status-report>

<sup>2</sup> <https://coronavirus.jhu.edu/testing/tracker/overview>

<sup>3</sup> <https://91-divoc.com/pages/covid-visualization/?chart=states&highlight=US-Northeast&show=highlight-only&y=both&scale=linear&data=testPositivity-daily-7&data-source=jhu&xaxis=right&extra=US-Midwest%2CUS-South%2CUS-West%2CUnited%20States#states>

<sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>;  
<https://jamanetwork.com/journals/jama/fullarticle/2766884>

WHEREAS, the TLAC program re-opened on June 21, 2021, and as of July 26, 2021, over 701 families have been helped with rental and utility payment assistance with payments made directly to landlords and/or utility companies, who have received much needed rental payments to ease the financial burden of the eviction moratorium.

WHEREAS, the Wall Street Journal reported that as of May 31, 2021, only 1.5 billion dollars of the 47 billion dollars Congress has appropriated to local governments has found its way into the hand of landlords and tenants.<sup>5</sup>

WHEREAS, DeKalb County received 31 million dollars from the federal government in the form of the Emergency Rental Assistance 1 and 2 grants to assist its citizens who are facing eviction and to reduce the commensurate financial burden on landlords who have been unable to evict residential tenants who qualify under the national CDC moratorium.

WHEREAS, prior to the international cyberattack, DeKalb County distributed approximately \$600,000.00 in rental and utility payment assistance to DeKalb County landlords and tenants.

WHEREAS, since the TLAC program re-opened a month ago, the County has distributed rental and utility payment assistance to landlords and utility companies for tenants in the amount of \$3,124,967.34.

WHEREAS, since its reopening on June 21, 2021, the TLAC program has 1657 pending applications and needs time to ensure that landlords and tenants receive the remaining federal rental and utility payment assistance they are entitled to as set forth in the TLAC program and applicable federal law and guidance.

WHEREAS, if the moratorium is not extended there are approximately 145 previously scheduled writs for eviction that will be processed in the normal course of business and there are a total of approximately 1651 writs for eviction currently pending in the DeKalb County Marshal's office.

WHEREAS, the public health state of emergency and cyberattack constitute a serious emergency in the Stone Mountain Judicial Circuit which substantially endangers or infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, and the ability of litigants or others to have access to the courts or to meet schedules or deadlines imposed by court order or rule, statute, or administrative rule or regulation pursuant to O.C.G.A. § 38-3-60 (2)(D).

Upon the request of the Chief Judge of the DeKalb County Magistrate Court and pursuant to O.C.G.A. § 38-3-61, through my authority as Chief Judge of the Stone Mountain Judicial Circuit, the undersigned DOES HEREBY ORDER AND DECLARE a Judicial Emergency in the Stone Mountain Judicial Circuit. The nature of this emergency is the continued COVID-19 public health emergency and cyberattack on the TLAC program which delayed relief targeted at parties to dispossessory proceedings.

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<sup>5</sup> *"Fraction of Covid-19 Rental Assistance Reaches Tenants and Landlord"*, The Wall Street Journal, July 2, 2021.



**Thus, in order to protect the health, safety, and liberty of all citizens in this Judicial Circuit, and under the authority granted by Part 2 of Article 3 of Chapter 3 of Title 36 of the Official Code of Georgia, the undersigned hereby declares a Judicial Emergency in DeKalb County, Georgia. This Court hereby adopts and incorporates the attached “Centers for Disease Control and Prevention Department of Health and Human Services Order under Section 361 of the Public Health Service Act (42 USSC 264) and 42 Code of Federal Regulations 70.2 Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19” entered by Rochelle P. Walensky, MD, MPH, on March 28, 2021 into this Order as if fully set forth herein. Such Temporary Halt in Residential Evictions shall apply to all affected classes of courts in the Stone Mountain Judicial Circuit.**

**This Judicial Emergency shall take effect only upon expiration of the CDC Federal Eviction Moratorium and once in effect shall remain in effect for sixty (60) days following the expiration of the CDC Federal Eviction Moratorium unless otherwise extended or terminated for good cause shown.**

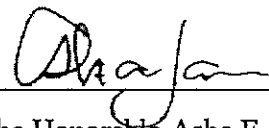
Should the state of emergency extend beyond the period indicated above or should the nature of the emergency otherwise require modification, a determination of available alternative remedies for the conduct of court business will be made as necessary, and a corresponding order will be entered and distributed in accordance with Georgia law.

IT IS FURTHER ORDERED, pursuant to O.C.G.A. § 38-3-63, that notice and service of a copy of this Order shall immediately be sent to Chief Justice of the Georgia Supreme Court, the Clerks of the Georgia Supreme Court and Georgia Court of Appeals, and all Judges and Clerks in the Stone Mountain Judicial Circuit, such service to be accomplished through means to assure expeditious receipt, which include electronic means; and

IT IS FURTHER ORDERED that the Sheriff of DeKalb County shall post this Order on her public notification site and in the courthouse; and

IT IS FURTHER ORDERED that notice shall also be sent to the media, the State Bar of Georgia, and the officials and entities listed below and shall constitute sufficient notice of the issuance of this Order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 30<sup>th</sup> day of July, 2021.



The Honorable Asha F. Jackson  
Chief and Administrative Judge  
DeKalb County Superior Court  
Stone Mountain Judicial Circuit

July 27, 2021

cc: Michael L. Thurmond, Chief Executive Officer, DeKalb County Georgia  
Robert Patrick, Commissioner for District 1, DeKalb County Georgia  
Jeff Rader, Commissioner for District 2, DeKalb County Georgia  
Larry Johnson, Commissioner for District 3, DeKalb County Georgia  
Stephen R. Bradshaw, Commissioner for District 4, DeKalb County Georgia  
Mereda Davis-Johnson, Commissioner for District 5, DeKalb County Georgia  
Edward C. "Ted" Terry, Commissioner for Super District 6, DeKalb County Georgia  
Lorraine Cochran-Johnson, Commissioner for Super District 7, DeKalb County Georgia  
Steve Gottlieb, Esq., Executive Director of Atlanta Legal Aid Society  
Mike Williams, Esq. Atlanta Apartment Association  
Pete Walker, Director of the DeKalb County Housing Authority  
Zachary Williams, Chief Operating Officer, DeKalb County Georgia  
La'Keitha Carlos, Chief of Staff, DeKalb County Chief Executive Officer  
Kwasi Obeng, Chief of Staff, DeKalb County Board of Commissioners  
John Matelski, Director of IT, DeKalb County Board of Commissioners  
Viviane H. Ernstes, County Attorney, DeKalb County Georgia

**FIRST AMENDMENT TO ORDER DECLARING A LOCAL JUDICIAL EMERGENCY  
TO LIMIT DURATION OF ORDER TO THIRTY DAYS 21AP1216**

WHEREAS, on July 30, 2021, this Court issued an order declaring a local judicial emergency and adopted the Center for Disease Control (“CDC”) national eviction moratorium as the parameters for such local judicial emergency.

WHEREAS, under applicable law, O.C.G.A. § 38-3-61, an order declaring the existence of a local judicial emergency shall be limited to no more than 30 days, however, that order may be modified or extended for no more than two periods not exceeding thirty (30) days each.

WHEREAS, the current trajectory of rates of COVID-19 cases in DeKalb County suggests that this Order shall require a minimum of one extension.

WHEREAS, changes to the DeKalb County Tenant Landlord Assistance Coalition may require more than 30 days to fully implement and thereby prevent more potential evictions and assist in effectuating social distancing.

WHEREAS, should public health factors including but not limited to those listed above justify extension of this local judicial emergency order, a corresponding extension order will be entered and distributed in accordance with Georgia law.

WHEREAS, it is the full intent of this Court to extend this Order for at least one additional 30-day period as allowed by law, which will be done under separate Amendment at the relevant time and will include the necessary findings required by law.

Now therefore, pursuant to OCGA § 38-3-61(b), the July 30, 2021 Order declaring a Local Judicial Emergency is amended to limit its duration to thirty (30) days from its effective date.

**This Judicial Emergency was effective as of 12:01 am on August 1, 2021 and shall terminate at 5:00 pm on August 30, 2021 unless otherwise extended or terminated as allowed by law.**

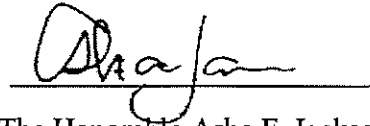
Should the state of emergency extend beyond the period indicated above or should the nature of the emergency otherwise require modification, a determination of available alternative remedies for the conduct of court business will be made as necessary, and a corresponding order will be entered and distributed in accordance with Georgia law.

IT IS FURTHER ORDERED, pursuant to OCGA § 38-3-63, that notice and service of a copy of this Order shall immediately be sent to Chief Justice of the Georgia Supreme Court, the Clerks of the Georgia Supreme Court and Georgia Court of Appeals, and all Judges and Clerks in the Stone Mountain Judicial Circuit, such service to be accomplished through means to assure expeditious receipt, which include electronic means; and

IT IS FURTHER ORDERED that the Sheriff of DeKalb County shall post this Order on her public notification site and in the courthouse; and

IT IS FURTHER ORDERED that notice shall also be sent to the media, the State Bar of Georgia, and the officials and entities listed below and shall constitute sufficient notice of the issuance of this Order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 2<sup>nd</sup> day of August, 2021.



The Honorable Asha F. Jackson  
Chief and Administrative Judge  
DeKalb County Superior Court  
Stone Mountain Judicial Circuit

cc: Michael L. Thurmond, Chief Executive Officer, DeKalb County Georgia  
Robert Patrick, Commissioner for District 1, DeKalb County Georgia  
Jeff Rader, Commissioner for District 2, DeKalb County Georgia  
Larry Johnson, Commissioner for District 3, DeKalb County Georgia  
Stephen R. Bradshaw, Commissioner for District 4, DeKalb County Georgia  
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La'Keitha Carlos, Chief of Staff, DeKalb County Chief Executive Officer  
Kwasi Obeng, Chief of Staff, DeKalb County Board of Commissioners  
John Matelski, Director of IT, DeKalb County Board of Commissioners  
Viviane H. Ernstes, County Attorney, DeKalb County Georgia

## **EXHIBIT B**

**CENTERS FOR DISEASE CONTROL AND PREVENTION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ORDER UNDER SECTION 361  
OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 264)  
AND 42 CODE OF FEDERAL REGULATIONS 70.2**

**TEMPORARY HALT IN RESIDENTIAL EVICTIONS IN COMMUNITIES WITH  
SUBSTANTIAL OR HIGH LEVELS OF COMMUNITY  
TRANSMISSION OF COVID-19 TO  
PREVENT THE FURTHER SPREAD OF COVID-19**

SUMMARY

The U.S. Centers for Disease and Control (CDC) is issuing a new order temporarily halting evictions in counties with heightened levels of community transmission in order to respond to recent, unexpected developments in the trajectory of the COVID-19 pandemic, including the rise of the Delta variant. It is intended to target specific areas of the country where cases are rapidly increasing, which likely would be exacerbated by mass evictions. Accordingly, subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person<sup>1</sup> with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any county or U.S. territory while the county or territory is experiencing substantial or high levels of community transmission of SARS-CoV-2.

DEFINITIONS

“*Available government assistance*” means any governmental rental or housing payment benefits available to the individual or any household member.

“*Available housing*” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

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<sup>1</sup> For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

“Covered person”<sup>2</sup> means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action,<sup>3</sup> a declaration<sup>4</sup> under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available governmental assistance for rent or housing;

(2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020 or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return),<sup>5</sup> (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check).<sup>6,7</sup>

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<sup>2</sup> This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, *Soc Sci Res.* 2017;62:362-377. doi:10.1016/j.ssresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See *2019 San Francisco Homeless Count & Survey Comprehensive Report*, Applied Survey Research, at 22, [https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport\\_SanFrancisco\\_FinalDraft-1.pdf](https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf). (last viewed Mar. 24, 2021).

<sup>3</sup> As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

<sup>4</sup> A person who previously filed a declaration under prior CDC eviction moratoria issued on September 4, 2020, January 29, 2021, March 28, 2021, or June 24, 2021 may be eligible for protection under this Order and does not need to file a new declaration, if they live in a county experiencing substantial or high rates of transmission of community levels of SARS-CoV-2 and meet the definition of a covered person under this Order.

<sup>5</sup> According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See *Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?*, National Low Income Housing Coalition, <https://reports.nlihc.org/oor> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

<sup>6</sup> “Stimulus check” includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

<sup>7</sup> A person is likely to qualify for protection under this Order if they receive the following benefits: a) Temporary Assistance for Needy Families (TANF); b) Supplemental Nutrition Assistance Program (SNAP); c) Supplemental Security Income (SSI); or d) Social Security Disability Insurance (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary<sup>8</sup> out-of-pocket medical expenses;

(4) The individual is using best efforts to make timely partial rent payments that are as close to the full rent payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

(5) Eviction would likely render the individual homeless—or force the individual to move into and reside in close quarters in a new congregate or shared living setting—because the individual has no other available housing options; and

(6) The individual resides in a U.S. county experiencing substantial<sup>9</sup> or high<sup>10</sup> rates of community transmission levels of SARS-CoV-2 as defined by CDC.

“*Evict*” and “*Eviction*” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. This definition also does not prohibit foreclosure on a home mortgage.

“*Residential property*” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,<sup>11</sup> or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

“*State*” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“*U.S. territory*” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

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<sup>8</sup> Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is one that is likely to exceed 7.5% of one's adjusted gross income for the year.

<sup>9</sup> Counties experiencing substantial transmission levels are experiencing (1) 50.99-99.99 new cases in the county in the past 7 days divided by the population in the county multiplied by 100,000; and (2) 8.00-9.99% positive nucleic acid amplification tests in the past 7 days (number of positive tests in the county during the past 7 days divided by the total number of tests performed in the county during the past 7 days). Christie A, Brooks JT, Hicks LA, et al. Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage. MMWR Morb Mortal Wkly Rep 2021;70:1044–1047. DOI: <http://dx.doi.org/10.15585/mmwr.mm7030e2>. See COVID-19 Integrated County View, Centers for Disease Control and Prevention; <https://covid.cdc.gov/covid-data-tracker/#county-view> (last updated August 1, 2021).

<sup>10</sup> *Id.* (defining high transmission levels as (1)  $\geq 100$  new cases in the county in the past 7 days divided by the population in the county multiplied by 100,000; and (2)  $\geq 10.00\%$  positive nucleic acid amplification tests in the past 7 days (number of positive tests in the county during the past 7 days divided by the total number of tests performed in the county during the past 7 days)).

<sup>11</sup> Mobile home parks may also be referred to as manufactured housing communities.



## STATEMENT OF INTENT

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and
- Supporting response efforts to COVID-19 at the federal, state, local, territorial, and tribal levels.

## BACKGROUND

### *COVID-19 IN THE UNITED STATES*

Since January 2020, the respiratory disease known as “COVID-19,” caused by a novel coronavirus (SARS-COV-2), has spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of August 3, 2021, there have been almost 200 million cases of COVID-19 globally, resulting in over 4,240,000 deaths.<sup>12</sup> Almost 35,000,000 cases have been identified in the United States, with new cases reported daily, and almost 610,000 deaths have been attributed to the disease.<sup>13</sup> A renewed surge in cases in the United States began in early July 2021; case counts rose from 19,000 cases on July 1, 2021 to 103,000 cases on July 30, 2021. Forecasted case counts predict that cases will continue to rise over the next four weeks.<sup>14</sup>

The virus that causes COVID-19 spreads very easily and sustainably between people, particularly those who are in close contact with one another (within about 6 feet, but occasionally over longer distances), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.<sup>15</sup> Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain

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<sup>12</sup>COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU), Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last updated August 3, 2021).

<sup>13</sup> COVID Data Tracker, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last updated August 1, 2021).

<sup>14</sup> United States Forecasting, Centers for Disease Control and Prevention, [https://covid.cdc.gov/covid-data-tracker/#forecasting\\_weeklycases](https://covid.cdc.gov/covid-data-tracker/#forecasting_weeklycases) (updated July 28, 2021) (citing data an estimated 608,569 weekly COVID-19 cases by early September 2021).

<sup>15</sup> Kimball A, Hatfield KM, Arons M, et al. Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility — King County, Washington, March 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:377–381. DOI: <http://dx.doi.org/10.15585/mmwr.mm6913e1>

underlying medical conditions (e.g., cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.<sup>16</sup>

New variants of SARS-CoV-2 have emerged globally,<sup>17</sup> several of which have been identified as variants of concern,<sup>18</sup> including the Alpha, Beta, Gamma, and Delta variants. These variants of concern have evidence of an increase in transmissibility, which may lead to higher incidence.<sup>19</sup>

Currently, the Delta variant is the predominant SARS-CoV-2 strain circulating in the United States, estimated to account for over 82% of cases as of July 17, 2021.<sup>20</sup> The Delta variant has demonstrated increased levels of transmissibility compared to other variants.<sup>21</sup> Furthermore, early evidence suggests that people who are vaccinated and become infected with the Delta variant may transmit the virus to others.<sup>22</sup>

Transmission of the Delta variant has led to accelerated community transmission in the United States. CDC recommends assessing the level of community transmission using, at a minimum, two metrics: new COVID-19 cases per 100,000 persons in the last 7 days and percentage of positive SARS-CoV-2 diagnostic nucleic acid amplification tests in the last 7 days. For each of these metrics, CDC classifies transmission values as low, moderate, substantial, or high. As of August 1, 2021, over 80% of the U.S. counties were classified as experiencing substantial or high levels of community transmission.<sup>23</sup> In areas of substantial or high transmission, CDC recommends community leaders encourage vaccination and universal masking in indoor public spaces in addition to other layered prevention strategies to prevent further spread.

COVID-19 vaccines are now widely available in the United States, and vaccination is recommended for all people 12 years of age and older. Three COVID-19 vaccines are currently authorized by the U.S. Food and Drug Administration (FDA) for emergency use: two mRNA vaccines and one viral vector vaccine, each of which has been determined to be safe and effective against COVID-19. As of July 28, 2021, over 163 million people in the United States

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<sup>16</sup> Razzaghi H, Wang Y, Lu H, et al. Estimated County-Level Prevalence of Selected Underlying Medical Conditions Associated with Increased Risk for Severe COVID-19 Illness — United States, 2018. *MMWR Morb Mortal Wkly Rep* 2020;69:945–950. DOI: <http://dx.doi.org/10.15585/mmwr.mm6929a1>.

<sup>17</sup> Abdool Karim SS, de Oliveira T. New SARS-CoV-2 Variants - Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362.

doi:10.1056/NEJMc2100362

<sup>18</sup> *Id.*

<sup>19</sup> Dougherty K, Mannell M, Naqvi O, Matson D, Stone J. SARS-CoV-2 B.1.617.2 (Delta) Variant COVID-19 Outbreak Associated with a Gymnastics Facility — Oklahoma, April–May 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1004–1007. DOI: <http://dx.doi.org/10.15585/mmwr.mm7028e2> (describing a B.1.617.2 (Delta) Variant COVID-19 outbreak associated with a gymnastics facility and finding that the Delta variant is highly transmissible in indoor sports settings and households, which might lead to increased incidence rates).

<sup>20</sup> *Variant Proportions*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (citing data for the two-week interval ending July 17, 2021).

<sup>21</sup> *About Variants of the Virus that Causes COVID-19*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant.html> (last updated June 28, 2021).

<sup>22</sup> Riemersma et al. Vaccinated and unvaccinated individuals have similar viral loads in communities with a high prevalence of the SARS-CoV-2 Delta variant. Pre-print. Available at <https://www.medrxiv.org/content/10.1101/2021.07.31.21261387v1>.

<sup>23</sup> *COVID-19 Integrated County View*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#county-view> (last updated July 28, 2021).

(57.6% of the population 12 years or older) have been fully vaccinated and over 189 million people in the United States (66.8% of the population 12 years or older) have received at least one dose.<sup>24</sup> Changes in vaccine uptake and the extreme transmissibility of the Delta variant have resulted in rising numbers of COVID-19 cases, primarily and disproportionately affecting the unvaccinated population.

The COVID-19 vaccination effort has a slower rate of penetration among the populations most likely to experience eviction.<sup>25,26</sup> In combination with the continued underlying COVID-19 spread, and the overlapping factors described above, this creates considerable risk for rapid transmission of COVID-19 in high-risk settings.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation and self-quarantine by people who become ill or who are at risk of transmitting COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related mortgage financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers.

Researchers estimated that this temporary federal moratorium provided relief to over one-quarter a material portion of the nation's roughly 43 million renters.<sup>27</sup> The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.<sup>28</sup>

The Federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under state and local moratoria. In early March 2021, the Census Household Pulse Survey estimated that 6.4

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<sup>24</sup> *COVID-19 Vaccinations in the United States*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last updated July 28, 2021).

<sup>25</sup> Barry V, Dasgupta S, Weller DL, et al. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity — United States, December 14, 2020–May 1, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:818–824. DOI: <http://dx.doi.org/10.15585/mmwr.mm7022e1>.

<sup>26</sup> Centers for Disease Control and Prevention. COVID-19 Vaccination Equity. Accessed 8/3/21. Available at: <https://covid.cdc.gov/covid-data-tracker/#vaccination-equity>

<sup>27</sup> Laurie Goodman, Karan Kaul, and Michael Neal. *The CARES Act Eviction Moratorium Covers All Federally Financed Rentals—That's One in Four US Rental Units*. The Urban Institute. April 2, 2020. <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>

<sup>28</sup> Vincent Reina et al, *COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs*, Research Brief, [https://nlihc.org/sites/default/files/HIP\\_NLIHC\\_Furman\\_Brief\\_FINAL.pdf](https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf) (last visited Mar. 26, 2021).

million households were behind on rent and just under half fear imminent eviction.<sup>29</sup> In 2016, research showed that there were 3.6 million eviction filings and 1.5 million eviction judgments over the span of a whole year,<sup>30</sup> meaning that the pandemic would cause a wave of evictions on a scale that would be unprecedented in modern times. A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021, and approved the Order as an exercise of the CDC's authority under Section 361 of the Public Health Service Act (42 U.S.C. 264). With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan Act of 2021. The Order was extended multiple times due to the changing public health landscape and expired on July 31, 2021 after what was intended to be the final extension.<sup>31</sup> Absent an unexpected change in the trajectory of the pandemic, CDC did not plan to extend the Order further.

Following the recent surge in cases brought forth by the highly transmissible Delta variant, the CDC Director now issues a new Order temporarily halting evictions for persons in counties experiencing substantial or high rates of transmission, for the reasons described herein. This Order will expire on October 3, 2021, but is subject to further extension, modification, or rescission based on public health circumstances.

Researchers estimate that, in 2020, Federal, state, and local eviction moratoria led to over 1.5 million fewer evictions filings than the previous year.<sup>32</sup> Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average,<sup>33</sup> there have still been over 450,000 eviction filings during the pandemic just within approximately 31 cities and six states with more readily available data. This data covers approximately 1 in 4 renter households in the country, suggesting high demand and likelihood of mass evictions nationwide.<sup>34</sup>

#### *EVICTION, CROWDING, AND INTERSTATE TRANSMISSION OF COVID-19*

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<sup>29</sup> *Census Household Pulse Survey: Key Phase 3 Housing Payment Findings*. Office of Policy Development and Research, HUDUser (April 26, 2021). <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-042621.html>

<sup>30</sup> Ashley Gromis. *Eviction: Intersection of Poverty, Inequality, and Housing*. Eviction Lab, Princeton University (May 2019). [https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS\\_Ashley\\_Paper.pdf](https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf)

<sup>31</sup> The CDC Director renewed the Order until March 31, 2021. On March 28, 2021, the CDC Director modified and extended the Order until June 30, 2021. On June 24, 2021 the CDC Director extended the Order until July 31, 2021.

<sup>32</sup> Hepburn P, Louis R, Fish J, et al. U.S. Eviction Filing Patterns in 2020. *Socius*. January 2021. doi:10.1177/23780231211009983.

<sup>33</sup> Peter Hepburn and Renee Louis. *Preliminary Analysis: Six Months of the CDC Eviction Moratorium* (March 8, 2021). <https://evictionlab.org/six-months-cdc/>

<sup>34</sup> Eviction Lab. Accessed 8/2/21. Available at: <https://evictionlab.org/eviction-tracking/>

By February 10, 2021, the U.S. Department of the Treasury had paid all of the \$25 billion made available by the Consolidated Appropriations Act, 2021 to states, territories, localities and tribes for the purpose of providing emergency rental assistance to eligible households in their jurisdictions. Additionally, as directed in the Act, Treasury has also made available 40 percent—more than \$8.6 billion—of the additional funding to states, territories and localities for emergency rental assistance provided in the American Rescue Plan Act of 2021. While some emergency rental assistance programs were slow to open, every State program had opened by early June. Based on data collected from grantees, Treasury reports that over 85,000 renter households received rental and utility assistance to support their housing stability by the end of March and this number increased to more than 100,000 in April, more than 156,000 in May and over 290,000 in June. Though emergency rental assistance has clearly started to reach increasing numbers of families over recent months, state and local agencies have hundreds of thousands of applications for assistance that currently remain outstanding as programs accelerate their activity. The level of assistance continued to increase in June, with nearly 300,000 households served. Based on analysis of grantee reporting, Treasury believes that the monthly deployment of rental assistance by state and local emergency rental assistance programs will continue to increase from the significant deployment in June. In addition to Emergency Rental Assistance, there are coordinated efforts across Federal agencies to – in partnership with states and localities – promote eviction prevention strategies.

Recent data from the U.S. Census Household Pulse Survey demonstrates that just under half of households behind on rent believe that an eviction is likely in the next two months.<sup>35</sup> A surge in evictions could lead to the immediate and significant movement of large numbers of persons from lower density to higher density housing at a time in the United States when the highly transmissible Delta variant is driving COVID-19 cases at an unprecedented rate.

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. These moves may require crossing state borders. According to the 2017 Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.<sup>36</sup> A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (>1 resident per room) were twice as likely to

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<sup>35</sup> Household Pulse Survey Interactive Tool. U.S. Census Bureau. <https://www.census.gov/data-tools/demo/hhp/#/> (last visited June 23, 2021).

<sup>36</sup> Qin-Long Jing, et al. Household secondary attack rate of COVID-19 and associated determinants in Guangzhou, China: a retrospective cohort study. *The Lancet*.2020 June 17; vol. 20.10; doi: [https://doi.org/10.1016/S1473-3099\(20\)30471-0](https://doi.org/10.1016/S1473-3099(20)30471-0).

test positive.<sup>37</sup> Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Modeling studies and observational data from the pre-vaccine phase of the COVID-19 pandemic comparing incidence between states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 30% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction.<sup>38</sup> Compared to a scenario where no evictions occurred, the models also predicted a 4%-40% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

An analysis of observational data from state-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted.<sup>39</sup> Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors accounted for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at  $\geq 16$  weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria

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<sup>37</sup> Ukachi N, Emeruwa, et al. Associations Between Built Environment, Neighborhood Socioeconomic Status, and SARS-CoV-2 Infection Among Pregnant Women in New York City. *JAMA*. 2020;324(4):390-392. doi:10.1001/jama.2020.11370.

<sup>38</sup> Nande A, Sheen J, Walters EL, Klein B, Chinazzi M, Gheorghe AH, Adlam B, Shinnick J, Tejada MF, Scarpino SV, Vespignani A, Greenlee AJ, Schneider D, Levy MZ, Hill AL. The effect of eviction moratoria on the transmission of SARS-CoV-2. *Nat Commun*. 2021 Apr 15;12(1):2274. doi: 10.1038/s41467-021-22521-5. PMID: 33859196; PMCID: PMC8050248.

<sup>39</sup> Leifheit KM, Linton SL, Raifman J, Schwartz GL, Benfer EA, Zimmerman FJ, Pollack CE. Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality. *Am J Epidemiol*. 2021 Jul 26:kwab196. doi: 10.1093/aje/kwab196. Epub ahead of print. PMID: 34309643.

was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at  $\geq 16$  weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.<sup>40</sup>

Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across state lines. Of the 35 million people in America who move each year, 15% move to a new state. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions (evictions occurring within the boundaries of a state or territory), as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across state borders.

Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order in areas of substantial or high transmission will inevitably increase interstate spread of COVID-19.

#### *EVICTION, HOMELESSNESS, AND COVID-19 TRANSMISSION*

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.<sup>41</sup> Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Data collection by an emergency shelter in Columbus, Ohio, showed that 35.4% of families and 11.4% of single adults reported an eviction as the primary or secondary reason for their seeking shelter.<sup>42</sup>

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 634 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are

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<sup>40</sup> Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

<sup>41</sup> *Count Us In 2020*. KCRHA (July 2020). [https://kcrha.org/wp-content/uploads/2020/07/Count-Us\\_In-2020-Final\\_7.29.2020.pdf](https://kcrha.org/wp-content/uploads/2020/07/Count-Us_In-2020-Final_7.29.2020.pdf)

<sup>42</sup> Chester Hartman and David Robinson. "Evictions: The Hidden Housing Problem" in *Housing Policy Debate*. 2003.

limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

Among other things, CDC guidance recommends increasing physical distance between beds in homeless shelters, which is likely to decrease capacity, while community transmission of COVID-19 is occurring. To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above.

#### *APPLICATION OF COVID-19 PREVENTION STRATEGIES BASED ON COMMUNITY TRANSMISSION*

CDC recommends strengthening or adding effective COVID-19 mitigation strategies in communities with considerable transmission risk. As discussed above, CDC guidance specifies that everyone, regardless of vaccination status, should wear masks in indoor and public settings in communities experiencing substantial or high rates of community transmission. Similarly, CDC guidance for homeless shelters recommends maintaining layered COVID-19 precautions as long as community transmission is occurring and provides options for scaling back precautions when community transmission is low.<sup>43</sup>

Eviction moratoria represent a COVID-19 transmission prevention measure that can similarly be applied when the epidemiological context is appropriate, for example in communities with substantial or high transmission of COVID-19.<sup>44</sup> Prevention strategies like these should only be relaxed or lifted after two weeks of continuous sustained improvement in the level of community transmission. In areas with low or no SARS-CoV-2 transmission and with testing capacity in place to detect early introduction or increases in spread of the virus, layered prevention strategies might be removed one at a time while monitoring closely for any evidence that COVID-19 cases are increasing. Decisions to add or remove prevention strategies should be based on local data and public health recommendations. The emergence of more transmissible SARS-CoV-2 variants, including Delta, increases the urgency for public health agencies and other organizations to collaboratively monitor the status of the pandemic in their communities and continue to apply layered prevention strategies.

#### *PERSONS AT HIGHER RISK OF EVICTION MAY ALSO BE AT HIGHER RISK OF BEING UNVACCINATED*

Communities with high rates of eviction have been shown to have lower coverage of COVID-19 vaccination – a focus for current vaccination campaigns. A study in the spring of 2021 showed that counties with high social vulnerability (i.e., social and structural factors associated with

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<sup>43</sup> Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19). Available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>

<sup>44</sup> Of course, eviction moratoria are only effective to the degree that consumers know about them and to the degree they are complied with by landlords, owners of residential property, others who have a right to evict, or their agents.



adverse health outcome inclusive of socioeconomic indicators related to risk of eviction) had lower levels of COVID-19 vaccination.<sup>45</sup>

### CDC EVICTION MORATORIUM

The Department of the Treasury has made funding available to states, territories, localities, and Tribal governments, which continue to distribute emergency rental assistance funds that may help mitigate spikes in COVID-19 transmission due to increases in evictions. Alongside other federal and state efforts to prevent evictions, these funds are expected to make a meaningful difference for hundreds of thousands of people who are expected to receive the rental assistance.<sup>46</sup>

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, the CDC Director renewed the Order until June 30, 2021. On June 24, the CDC Director renewed the Order until July 31, 2021 (July Order). The CDC Director indicated that the July Order would be the final extension of the nationwide eviction moratorium absent an unexpected change in the trajectory of the pandemic. Unfortunately, the rise of the Delta variant and corresponding rise in cases in numerous counties in the United States have altered the trajectory of the pandemic. As a result, CDC is issuing this narrower, more targeted Order to temporarily halt evictions in the hardest hit areas. Without this Order, evictions in these areas would likely exacerbate the increase in cases. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

### APPLICABILITY

This Order applies in U.S. counties<sup>47</sup> experiencing substantial<sup>48</sup> and high<sup>49</sup> levels of community transmission levels of SARS-CoV-2 as defined by CDC, as of August 3, 2021. If a U.S. county that is not covered by this Order as of August 3, 2021 later experiences substantial or high levels of community transmission while this Order is in effect, then that county will become subject to

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<sup>45</sup> Barry V, Dasgupta S, Weller DL, Kriss JL, Cadwell BL, Rose C, Pingali C, Musial T, Sharpe JD, Flores SA, Greenlund KJ, Patel A, Stewart A, Qualters JR, Harris L, Barbour KE, Black CL. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity - United States, December 14, 2020-May 1, 2021. *MMWR Morb Mortal Wkly Rep.* 2021 Jun 4;70(22):818-824. doi: 10.15585/mmwr.mm7022e1. PMID: 34081685; PMCID: PMC8174677.

<sup>46</sup> *Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey.* National Low Income Housing Coalition. June 2021. [https://nlihc.org/sites/default/files/HIP\\_NLIHC\\_Furman\\_2021\\_6-22\\_FINAL\\_v2.pdf](https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_2021_6-22_FINAL_v2.pdf)

<sup>47</sup> As used in this Order, the term "county" refers to both counties in the United States and U.S. territories.

<sup>48</sup> *Supra* note 7.

<sup>49</sup> *Supra.* note 8.



















