



American Rescue Plan – Update 4 **Eviction Processes**

The July Report focuses on the eviction process and current housing assistance in Manatee and Sarasota Counties.

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1.2 Million U.S. Households “very likely” to face eviction by end of July 2021

The Federal Centers for Disease Control and Prevention (CDC) extended its moratorium order through July 31, 2021, preventing landlords from evicting tenants for non-payment of rent when certain conditions are met. All indications are that this will be the **final extension** of the federal moratorium.

Thanks to wide publicity, most tenants and social service agencies know that this moratorium does not stop an eviction lawsuit from being filed and does not stop the court from entering a final judgment of eviction. **It does not relieve a tenant from the obligation to pay all rent owing. It does stop the final writ of possession from being issued, and tenant removal, until the end of the month.**

Tenants behind on rent are not automatically covered by the moratorium, and to be protected a tenant must give their landlord a sworn declaration attesting to specific facts. This declaration should also be given to the court if an eviction has been filed.

Recent U.S. Census data reveals that 1.2 million households report that they are likely to face eviction next month. All counselors, social service providers, and tenants should understand the strict timelines and procedures of an eviction.

Time is Tight in Eviction Cases – Now, More Than Ever, Everyone Needs a Basic Understanding of the Process

All evictions must be filed in the County Court system and are not legal unless the tenant has been first given a written notice. **Changing locks, removing belongings, turning off utilities before a court lawsuit is concluded are all illegal.** If this happens, call law enforcement and a lawyer. **The toll-free number for Gulfcoast Legal Services is: 800-230-5920.**

If a tenant has not paid rent, the landlord must give a three-day notice in writing to leave or pay the amount owed. Weekends and legal holidays are not counted, nor is the day the notice is delivered. Only after three full days have elapsed, may the landlord file the eviction complaint in court.

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Sarasota & Manatee Counties

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Bradenton, FL 34208
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F: (941) 746-3661

After the eviction complaint is filed in court, a summons and complaint are officially served on the tenant. These papers may be left on the door, with another copy sent in the mail. Time is tight. **The tenant only has five working days (holidays and weekend do not count) after “service” to file an answer in writing in the eviction case, explaining all reasons why they should not have to move.** The tenant must make sure their written answer gets to the courthouse and is filed in their case.

In the complaint, the landlord must state the total amount of rent due. Florida has a “rent deposit” requirement that is not “tenant friendly.” This means the tenant must deposit the unpaid rent in the court registry in order to get a hearing in front of the judge, or they must promptly file a written argument with their answer, explaining why the amount claimed is wrong.

A tenant should attach proof that the amount is incorrect, such as rent receipts, or written agreements between the landlord and tenant to reduce the rent. This written statement is called a “Motion to Determine Rent.” **Florida law does not require a tenant to deposit money with the court until a judge reads the motion and decides how much rent needs to be deposited by the tenant. This process does not take long.**

Some judges will hold a hearing to listen to the tenant’s arguments about why the rent amount is incorrect. Other judges will read the tenant’s written argument and review attached documents and rule on the tenant’s motion without a court hearing.

If the “Motion to Determine Rent” does not offer a good explanation with proof of a dispute about the amount owed, the judge could likely order that the entire amount claimed by the landlord needs to be deposited with the court. Be aware and check the court docket every day. The Manatee County court docket can be searched at: <https://records.manateeclerk.com/CourtRecords/Search>. The Sarasota County court docket can be searched at: <https://secure.sarasotaclerk.com/AnonLanding.aspx>.

If rent becomes due while an eviction case is in court, the tenant must deposit the rent that comes due. For example, if the eviction is filed at the end of July, when August arrives, the August rent should be deposited with the court.

The Tenant’s Day in Court

The court will schedule a date for the tenant to present their case in front of the judge, only if the tenant follows all the requirements on the Summons. Unfortunately, this includes the requirement to deposit the amount of rent that is owed. Remember, this will be either the amount the landlord claims is owed, or, if the tenant presents good reasons and proof of a dispute, this will be the amount the judge orders to be deposited.

A tenant who does not file a written answer and who does not deposit the rent money owed into the court registry, will likely lose the case, and will not get a chance to see, or explain anything to the judge.

The Final Judgment

If the unpaid rent is not in the court registry by the deadline, the judge will enter a Final Judgment of eviction against the tenant. Remember, this can happen even though the tenant never appears before the

judge. **The judgment authorizes the landlord to take possession of the rental property.** Once the judge signs the judgment, the landlord has one more step. The landlord must ask the judge to issue a Writ of Possession. The Writ of Possession is issued by the court and is officially served on the tenant, which usually happens by posting the Writ of Possession on the door of the rental property. The Writ of Possession clearly states that the tenant has only 24 hours to move completely out.

If the tenant does not move out, the Sherriff will return to evict the tenant. The Sherriff can physically remove the tenant from the rental property. The landlord will then be allowed to place the tenant's belongings out on the curb and change the locks.

If someone you know is delinquent in paying rent, or has been served with an eviction complaint, remember, time is not on their side. Sarasota County and Manatee County, and the State of Florida, all have Emergency Rental Assistance Programs and can be utilize to avoid an eviction:

- [Sarasota County](#)
- [Manatee County](#)
- [State of Florida](#)

If you have unpaid rent and think an eviction may be filed against you, call [Gulfcoast Legal Services](#) right away at 800-230-5920.