# A Pandemic Meets a Housing Crisis

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**SUMMARY**. Housing instability in the United States has been exacerbating health disparities and causing worse health outcomes for low-income individuals and people of color well before the COVID-19 pandemic. Individuals with low- or no-income experience intermittent utility connection, are more likely to be evicted, and spend a higher percentage of their income on housing costs. There is an insufficient supply of safe, affordable housing. As a result, people are homeless, live in substandard conditions, and experience economic insecurity. COVID-19 increased the number of families afflicted with housing instability and prompted an unprecedented government response to this issue. Certain legal constraints that perpetuated a system of discrimination were rapidly suspended or amended when middle- and upper-class people found themselves struggling with housing and utility payments, income insecurity, and other stressors of the pandemic. Historically, these burdens were concentrated in the low-income population, with an emphasis on people of color. Therefore, it follows that the grace and concern extended during the pandemic still reflects bias against socioeconomically disadvantaged groups and empathy towards higher-income people. In many instances, laws that are equally applied to all individuals widened the gap between people at different places on the socioeconomic continuum. People facing additional hardships need extended grace periods for rent and utility payments. The short-term solutions instituted during COVID-19 did not address the digital gap, the needs of formerly incarcerated people, or the reality that low-income groups will inevitably experience the same unstable situations they were in prior to the pandemic. Individuals who are more likely to be affected by housing instability belong to socioeconomic groups that are being disproportionately and adversely affected by COVID-19. These compounding demographic factors complicate the legal response to housing problems. Recommendations for mitigating the negative effects of policies and regulations focus on addressing issues omitted from the COVID-19 housing laws, expanding the laws that were put into place, and targeting the underlying causes of housing instability in order to proactively prevent such instability.

## Introduction

Interrelated and systemic factors of race, income, and health create unique housing challenges for underserved communities that have persisted for decades. The 2018 poverty rate in the United States was just under 12%, with approximately 38 million peopling living at or below the poverty line. The rates of poverty for Black people (20.8%) and for Latino people (17.6%) are disproportionately high (Poverty USA, 2019). Housing is considered affordable if housing costs do not exceed 30% of household income. Over 50% of renters in the United States exceed this budget (Sisson et al., 2020). At $1017 per month, the average fair market rent for a one-bedroom home is far above the $655 a family of four at the federal poverty line of $26,200 could afford. With just 37 rental homes available for every 100 renters with incomes at or below the poverty level, affordable housing is in short supply. This affordable housing shortage exacerbates racial housing disparities, because Black and Latino Americans are much more likely than whites to fall into the extremely low-income category.

Families sacrifice purchasing other necessities when a large percentage of income is dedicated to housing. Low-income individuals often have to decide between paying the rent or mortgage, or face eviction, and buying medicine, healthy food, or other items that would prevent negative health outcomes. One study in 2015 determined that people experiencing cost burdens for housing are placed in this position at higher rates than those who are not. These cost-burdened households spent 53% less on non-housing necessities compared to their counterparts (Owens-Young, 2019).

Health disparities also stem from the type of housing that is available to people who live in poverty. Housing available to families at or below the poverty line often has structural problems, including asthma-causing allergens and lead paint (Owens-Young, 2019). Substandard housing becomes the de facto "affordable housing," because it is the only housing within the price range for low-income people.

## Housing Laws and Policies in Response to COVID-19

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which addresses several housing issues stemming from the coronavirus outbreak. A summary of the pertinent clauses follows, together with state and local laws that mitigate housing insecurity due to the pandemic. The beneficiaries of the CARES Act are people who rent or own homes financed with Department of Housing and Urban Development (HUD) or Federal Housing Administration (FHA) funds, or that are secured by a Freddie Mac or Fannie Mae mortgage, all of which are defined as "Federally Impacted Properties" (Coronavirus Aid, Relief and Economic Security Act, 2020). Although a large percentage of financing for public housing is allocated by the federal government to the states and comes with broad guidelines, local public housing authorities (PHAs) are responsible for the use of the funds, public housing operations, and the general administration of housing programs. States and local governments also have the ability to increase housing stability during the pandemic by expanding and extending protections put in place by the CARES Act to all citizens. This can mean increasing the time frame for eviction protections, adding other prohibitions on tenant removal, or any other type of assistance that would allow more people to stay in their homes. This Section categorizes and critiques laws at all levels of government. In doing so, it illuminates the socioeconomic disparities created by laws in the midst of COVID-19, which adversely affects Black, brown and low-income people at higher rates.

### Public Housing

HUD allocated $1.25 billion for tenant-based rental assistance to help public housing agencies maintain normal operations. The CARES Act allocates an additional $685 million for public housing operations through the end of 2020. The majority of low-income housing units are multifamily structures. The high concentration of people in these buildings make social distancing complicated. Individuals who reside in public housing are also subject to ongoing eligibility requirements which require interactions, putting the staff and residents in these accommodations at greater risk of infection. While the money is helpful, the distribution of funds is to avoid terminating rental assistance for these families or to "support and maintain the health and safety of assisted households…" It is outside the scope of the Act and allocation guidelines to use the funds for updating the structure of the buildings or eradicating the barriers to access public housing that certain populations face. As a result, housing remains a factor that can cause the pandemic to disproportionately impact low-income people and communities of color.

### Rent Abatement and Rental Assistance

Most states and the CARES Act do not prevent landlords from increasing rents during the COVID-19 emergency. Governor Jay Inslee of Washington issued an executive order prohibiting rent raises during the emergency period, but Washington is only one of two states to do so. Only nine states prevented late fees from being charged and four states mandate a grace period for rent. Cities also have the ability to provide financial aid to tenants. Indianapolis, IN approved $15 million for rental assistance. Overall, state and federal laws simply do not provide long-term housing solutions for rent and housing stabilization.

### Mortgage Forbearance

The federal government enacted a forbearance of residential mortgage loan payments for multifamily properties with federally backed loans through the CARES Act. An initial forbearance is granted for up to 180 days for those experiencing coronavirus-related hardships, with an optional 180-day extension. Fees and penalties may not be assessed during the extension. Forbearance is available through the earlier of December 31, 2020 or the termination of the national emergency. This provision prohibits eviction from such properties until August 31, 2020 (Coronavirus Aid, Relief and Economic Security Act § 4023, 2020). States can expand this protection, as New York did, by legislating mortgage forbearance to people with mortgage form state-regulated financial institutions.

### Eviction Moratoria

The CARES Act provides a moratorium on eviction for residents of Federally Impacted Properties until August 31, 2020. This prohibits the recovery of housing possession from the tenant due to nonpayment of rent, including late fees (Coronavirus Aid, Relief and Economic Security Act § 4024, 2020). Eviction proceedings initiated prior to March 27, 2020 are not covered by this federal law, so some tenants must rely on state and local laws to keep their homes. Many states have refused to implement statewide eviction and housing stability orders, which means landlords may charge late fees for past due rental payment, utilities may be disconnected, there may be utility reconnection fees, and landlords are able to increase rent even during the eviction moratorium (Eviction Lab, 2020).

Twenty-eight states have restricted some part of the eviction process during the state of emergency. However, some of these states only prohibit select phases of eviction. For example, Maryland courts suspended hearings, judgments of possession, and have extended deadlines for tenants to respond. However, Maryland is still initiating evictions by sending notices to quit and continuing to file evictions against all tenants, even those with a COVID-19 hardship (Eviction Lab, 2020). Connecticut's executive order is one of the more tenant-friendly ones, generally prohibiting eviction filings, except in cases of emergencies. Connecticut's order extends to all stages of eviction including notices to quit, filings, hearings, rulings and executions. This is significant because if a state prohibits execution of evictions, but still permits filings, the tenant receives a notice of an impending eviction which can disrupt the tenant's housing status and well-being.

Of the 28 states that have stayed some part of the eviction process during the state's emergency declaration, only eight of these states opted to extend the eviction moratorium past the emergency declaration expiration (Eviction Lab, 2020). The extension dates vary, with some giving a specific date, such as Massachusetts's date of October 17, 2020, and others depending on when the state of emergency ends (Eviction Lab, 2020). Vermont is one example of an eviction moratorium that terminates one month after the state of emergency ends. Thirty days is insufficient time to expect people making low or no income to pay rental expenses, in full (Eviction Lab, 2020). Also, only 18 states issued a foreclosure moratorium, leaving many homeowners subject to removal. Eviction moratoria, even if extended, only delay evictions for people who are experiencing COVID-19-related economic distress (Eviction Lab, 2020).

Adding to the complexity is the fact that eviction law and process is often governed by rules at the local or judicial district level. In Georgia, for example, the court process depends on which one of the 159 counties is processing the claim (Sudeall et al., 2020). Although there is a statewide suspension of eviction hearings, there is variation across counties on issuing judgments, whether the courts are open, and which ones have moved their operations online. Many counties have continued to accept eviction filings.

### Utilities and Internet

Twenty-seven states have prohibited utility companies from disconnecting services during the state of emergency, but only seven states provided utility reconnection at no charge to the resident. Requiring tenants to pay hundreds of dollars will be a barrier to utility access to several low-income residents. Similar to many of the housing laws mentioned, tenants remain at risk of losing access to electricity and water if the shutoff was ordered prior to the pandemic. This creates obvious complications to safely sheltering in place.  Also, eligible individuals may receive a loan of up to $10,000 to pay for utilities through the Paycheck Protection Program. (Coronavirus Aid, Relief and Economic Security Act § 1102, 2020). Applying to this program, together with many other economic and educational necessities, is reliant upon internet access, which is not provided for in the CARES Act and which low-income residents are less likely to have, particularly in an economic crisis. Residents who receive temporary relief from utilities may be exempt from termination of their gas, electric and water services. The lack of internet access, even temporarily, deepens the digital divide at a time when children rely on the web for education, jobs have moved online, and pertinent information about how to stay safe during COVID-19 is primarily disseminated on the internet. It is also important that many counties have moved court hearings online, so without reliable internet citizens' due process is interrupted. Though some providers allowed for uninterrupted internet service in residences, this grace expired, for the most part, either at the end of the school year or within two months from the end of the school year. (See Chapter 30, Broadband Access)

Now is the time for localities to pass legislation creating efficient access to internet in emergencies so that bureaucracy does not bar residents from receiving the tools they need for survival.

### People Experiencing Homelessness

Funds were appropriated through the CARES Act to help prevent a coronavirus outbreak amount people who are unsheltered and households earning less than 50% of area median income. Four billion dollars for Homeless Assistance grants will be available until September 30, 2022. The funds may be used for temporary emergency shelters, staff costs, rapid rehousing, rental deposit assistance and related housing assistance. Local agencies can provide guidelines for using those funds to increase housing. For example, Washoe County, Nevada partnered with a private company to create 375 beds for unhoused people, and also provided them with bathrooms and COVID-19 screenings (Washoe County, 2020).

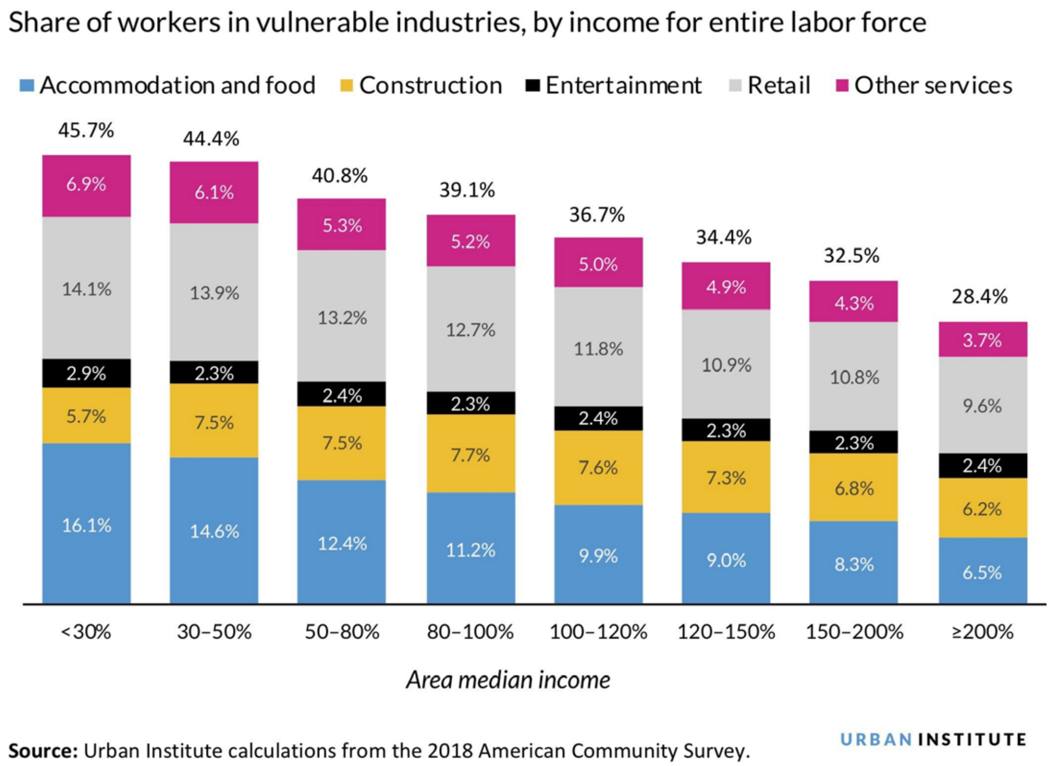
## Health Disparities and Housing

Deficiencies in the housing-related provisions of federal, state and local COVID-19 legal responses are evident, and the short-term nature of the laws that were passed illustrates the self-help framework typically applied in anti-poverty and housing policy. However, supporting individual resilience is not an effective way to approach systemic housing inequities. Upon the expiration of these laws, it is foreseeable that low-income individuals will be in the same, or worse, position than they were prior to the pandemic. These individuals face challenges other than housing, and their race and socioeconomic status puts them at greater risk for health inequities.

Low-income workers, who are more at risk for housing instability, have occupations that expose them to COVID-19 at higher rates, and are less likely to receive adequate health insurance (Garfield et al., 2020).  The majority of low-income renters are minorities. Minorities have suffered from COVID-19 at disproportionately high rates and have experienced serious symptoms of the virus. Non-Hispanic black people, Hispanics and Latinos, and American Indians/Alaska Natives, experience higher rates of hospitalization and death from COVID-19 than non-Hispanic white people (Center for Disease Control, 2020).

Housing insecurity compounds the disparate health effects of COVID-19. There is high demand for rental assistance funds, and upon their depletion, low-income workers will, again, struggle to find the funds to pay for housing. Without loan forgiveness, or an established fund to cure mortgage defaults, low-income homeowners will simply owe more money at a later date, thereby postponing rather than preventing economic and housing instability. All of these factors increase the likelihood of eviction, which, in turn, worsens health outcomes. Eviction is linked to a myriad of negative physical and mental health outcomes, including stress-related illnesses such as depression and suicidal thoughts. Notably, respiratory diseases and increased mortality are more prevalent among individuals experiencing eviction (Benfer, 2020).

Forbearances for Federally Impacted Property are helpful, but leave many people out. States have the ability to direct state-regulated servicers and lenders to provide long-term loan modifications that




**Source:** Urban Institute calculations from the 2018 American Community Survey.
**Note:** We grouped household income relative to the area median income and looked at all individuals within those households. For non-metropolitan statistical areas (MSAs), median household income is calculated by using the population within the state who are not living in MSAs.

Figure 1: Low-Income Renters Are More Likely to Work in the Five Industries Most Vulnerable to COVID-19 (Urban Institute, 2020).

would include payment reductions, forgiveness and longer grace periods – but have generally not done so. Nor have governments at any level addressed two key risks disproportionately faced by low income people and communities of color: dangerous physical housing conditions, and housing barriers for people leaving prison.

Low-income housing often contains health hazards that can cause "asthma, respiratory infections, lead poisoning, learning disabilities, behavioral and mental health problems, injuries, long-term brain damage, cancer, and other harmful conditions" (Benfer, 2015). These illnesses aggravate COVID-19 symptoms and eliminating mold and allergens from homes at no cost to the residents would reduce health implications and costs of these elements. However, the dearth of structural deficiency inclusion in local, state and federal housing laws addressing the pandemic illustrates the lack of attention to long-term, preventive measures in these regulations. The CARES Act is silent on this issue, and few states have acted. Setting an example, the Clifton County Home Improvement Project in New Jersey received federal funds to assist homeowners with repairing housing code violations, and other counties should use resources to do the same (Clifton County, 2020).

Incarcerated and formerly incarcerated individuals are disadvantaged in a number of ways, including being excluded or discriminated against with respect to public housing assistance and other housing options. As a result, formerly incarcerated people experience homelessness at much higher rates, especially in the time directly after they are released. Although people in prisons and jails were being released to home confinement in order to slow the spread of the virus, many people had no home to go to. While lack of housing options has always afflicted this community, the health and economic implications of not being able to find housing are worsened during the pandemic. Black men and women who were incarcerated have higher rates of unsheltered homelessness compared to their counterparts (Couloute, 2018). Without laws during a pandemic that specifically provide for housing options for this population, the ability for early release and home confinement provisions to reduce negative health outcomes is severely stymied.

# Recommendations for Action

## Federal government:

- Congress should amend the Affordable Housing Credit Improvement Act of 2019 to increase the tax credit allocations by 50% in order increase the supply of affordable housing.
- Congress should amend Section 8 of the United States Housing Act of 1937 and use its appropriations powers to:
    - o Increase the income eligibility limits to 200% of the Federal Poverty Level;
    - o Increase the funding levels for Housing Choice Vouchers by at least 300%;
    - o Allow non-violent, formerly incarcerated individuals to be eligible for Housing Choice Vouchers and prohibit states and local government from increasing the duration of any bans or otherwise enact more restrictive laws than federal law.
- Congress should amend the CARES Act to:
    - o Extend the time limit on eviction and foreclosure moratorium for homeowners with FHA-insured single-family mortgages;
    - o Provide loan forgiveness for three months for owners of multifamily properties with federally-backed loans;
    - o Allow for the allocated $4 billion for Homeless Assistance Grants and Emergency Solution Grants to be used for permanent, supportive housing for people experiencing homelessness, and increase the availability and amount of these funds beyond September 2022.

## State governments:

- State legislatures should appropriate funds and enact laws to subsidize high-speed, broadband internet for residences and alternative housing, such as homeless shelters or hotels and motels used to provide shelter for those experiencing homelessness.
- State legislatures should appropriate funds and enact laws to provide grants and funds for methods to develop and use technology to monitor ongoing eligibility requirements for public and affordable housing, including rent recalculation for Housing Choice Vouchers.
- State legislatures should appropriate funds and enact laws to provide rental assistance grants to low-income renters and to landlords to reduce evictions and rehabilitate structures with environmental hazards.
- State legislatures should establish or clarify the rule that evictions are limited to where housing owners can demonstrate good cause.
    - o Good cause should be generally limited to a) incidents that threated the life or well-being of any tenant in the building, or b) a violent crime;
    - o During and for six months after the COVID-19 emergency, good cause should exclude non-payment of rent.

## Local governments:

- Courts should interpret emergency orders or declarations regarding evictions broadly, to freeze evictions in all forms and at all stages, including filings and notices.
- Government officials should authorize the use of Homeless Assistance Grant funds received from states via the CARES Act for safe alternative, longer-term housing for people experiencing homelessness that includes supportive services and sanitation measures.
- PHAs should allocate funds to non-profits and mission-driven organizations to provide social services and housing services for low-income renters.
- To prevent public housing tenants from experiencing homelessness, PHAs by rule and/or local governments by ordinance should:
    - o Stop the initiation or completion of evictions for non-violent or emergency reasons until after state or local emergencies are over;
    - o Extend the repayment period to a minimum of six months after the end of the moratorium;
    - o Stop the collection of any late fees during the suggested extended repayment period, even if such fees were charged prior to the beginning of the moratorium;
    - o Eliminate any restrictions on individuals who were evicted from private housing from the Housing Choice Voucher program.
- PHAs should exercise their authority to cease enforcement of any minimum rent during the pandemic and for a period of at least six months after.

## About the Author

Courtney Anderson is an Associate Professor of Law at Georgia State University College of Law and her position at Georgia State Law supports the university's Next Generation Initiative, which focuses on interdisciplinary research into how law and policy might impact the social, economic, and environmental determinants of health, particularly among minority and low-income populations. Anderson received an LL.M. with distinction from Georgetown University Law Center in 2012 and graduated from Harvard Law School in 2006.

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