

Northern Virginia Eviction Prevention & Housing Stability Toolkit



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About This Toolkit

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

Eviction Prevention & Racial Equity

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

About NVAHA

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

About LSNV

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

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

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

Federal Action

What's been done?

✓ **CDC Eviction Moratorium.**

The U.S. Centers for Disease Control and Prevention (CDC) issued several moratoria on evictions beginning with an order that took effect September 4, 2020. On August 26, 2021, The Supreme Court ruled that the CDC exceeded its authority and ended the most recent federal moratorium, stating that any future federal moratorium will need to be authorized by Congress. Despite the ruling to end the moratorium, both the CDC order and the Supreme Court decision acknowledge that eviction prevention is a public health issue. It is in the public interest to keep individuals and families stably housed to prevent the spread of COVID-19. Below are additional actions that have been taken at the federal, state and local level to keep residents housed during the ongoing public health emergency.

✓ **Emergency Rental Assistance (ERA) Program.**

The Consolidated Appropriations Act of 2021 established the \$25 billion ERA program. The American Rescue Plan of 2021 allocated an additional \$21.5 billion in ERA funding. Funds are paid directly to states and local governments with at least 200,000 residents to be used for emergency rental assistance through Sept. 30, 2025.

What needs to be done?



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

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

Work with lenders to offer mortgage forbearance. The federal government should work with financial institutions to arrange mortgage forbearance for



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

Invest in housing. It is imperative that Emergency Rental Assistance not be construed as solving our pre-pandemic housing crisis. To promote long-term housing stability and address pre-pandemic racial inequities in access to housing and homeownership, the federal government must invest in long-term solutions to create more housing opportunities that are affordable for individuals across the income spectrum.

State Action

What's been done?

- ✓ **Virginia Rent Relief Program (RRP).** RRP is expected to remain in place through September 2025 using federal Emergency Rental Assistance (ERA) funds. **Note:** Because Fairfax County accepted a direct allocation of ERA funds, landlords and tenants in Fairfax County need to apply for assistance directly from the County. See p. 8 for details.
- ✓ **14-day notice.** Before filing to evict tenants who were financially impacted by COVID-19 for non-payment of rent, landlords are **required** to give tenants 14 days' notice (increased from 5 days) and notify tenants' about state rental assistance funding. During the 14 day notice period, landlords are **required** to apply for assistance on behalf of tenants who have not applied on their own. If the tenant has applied, the landlord is **required** to cooperate with the application by providing supporting documentation, including a state W-9 form. Landlords may only evict a tenant for non-payment of rent if the tenant is found ineligible for assistance, refuses to cooperate in applying for assistance, or is not approved within 45 days of filing their initial application or 14 days of filing a subsequent application.
- ✓ **Option to Enter a Repayment Plan.** Landlords who own more than four units must offer tenants who fall behind on rent the option of entering a repayment plan with no late fees.
- ✓ **Expansion of legal services.** The state, with help from a matching grant from IKEA, allocated \$4 million to expand access to legal services for Virginians facing eviction.
- ✓ **Protection from discrimination based on payment history.** Landlords cannot deny applicants for tenancy based solely on the applicant's payment history or an eviction for non-payment of rent that occurred during the COVID-19 public health emergency. Unfortunately, the burden of reporting discrimination falls on the tenant, and the window to report a violation is very short.

What needs to be done?

- **Make permanent changes to “pay-or-quit” notices.** Many tenants move out of their homes after receiving a pay-or-quit notice because these notices are written in language that is hard to understand (especially for non-native English speakers). The state should change the language landlords must use in pay-or-quit notices, so it is clear the tenant can stay in their home through the end of the eviction process. The state should also make the 14-day notice period permanent (this change is currently set to expire July 1, 2022).
- **Right to counsel.** Tenants facing eviction who have access to legal representation are more likely to remain in their homes, and have their case records sealed so they do not face future barriers to housing access.¹ The state should institute a right to counsel and fund public representation for tenants facing eviction.
- **Stronger protection from discrimination based on eviction/payment history.** Denial of applicants for tenancy based solely on payment history or a past eviction for non-payment of rent creates a cycle of housing insecurity. The state can break this cycle by implementing protections that extend beyond the COVID-19 public health crisis, and by sealing or automatically expunging eviction records after a certain period of time.
- **Invest in housing.** The state has the opportunity to use American Rescue Plan funds to invest in long-term housing solutions, including investments to end homelessness, provide permanent supportive housing for persons with disabilities, create housing that's affordable for low and moderate income households, young families wanting to buy their first home, and seniors on fixed incomes who want to remain in their communities.

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

Local Action: Emerging Best Practices

- ✓ **Develop cross-sector collaborations to prevent evictions.** Many Northern Virginia jurisdictions have formed cross-agency eviction prevention response teams that include representatives from multiple local government agencies, and human service and legal aid organizations. These teams work together to support individuals at-risk of eviction, and connect them to rental assistance and other resources, while avoiding duplication of outreach efforts. Another emerging best practice is partnering with local public school systems to provide information on rental assistance and other resources to students and their families. Going forward, local jurisdictions should continue to innovate through the formation of new partnerships and the use of new technologies (e.g., WhatsApp, SMS messaging) to share vital information about rental assistance and other resources with vulnerable residents.
- ✓ **Engage Sheriffs' Departments to support residents.** The Eviction Prevention Task Force in the City of Alexandria and the Fairfax County Task Force both include representatives from the local Sheriffs' Departments. These representatives help local government staff and human service providers connect residents facing active writs of eviction to emergency services. To protect public health and keep residents safely housed, Sheriffs' Departments can also set a policy not to evict households with members who were exposed to COVID-19 or have COVID-19 like symptoms.
- ✓ **Institutionalize positive relationships with landlords.** The COVID-19 pandemic highlights the value of developing good relationships between government staff and landlords to foster collaboration and cooperation that can act as a bridge in times of crisis. The City of Alexandria has initiated the following activities for engaging landlords that serve as a model for best practices: organize staff visits to meet property owners and managers, provide impartial mediation and technical assistance to landlords and tenants, establish relationships with landlord attorneys, and organize and promote educational seminars on topics of interest to property owners and managers. During the pandemic, these strategies have been particularly effective in notifying landlords about changes in Virginia's landlord-tenant laws, as well as organizing trainings for landlords on how to comply with new laws and access rental assistance on behalf of tenants. It is critical that local jurisdictions support these outreach efforts to ensure collaboration to keep residents housed during the public health emergency and beyond.
- ✓ **Provide economic relief for landlords.** Many Northern Virginia jurisdictions have offered relief to non-profit landlords with publicly-backed loans. For example, Arlington County allowed its borrowers to defer 2019 residual receipt loan payments, and Fairfax County offered financial assistance to properties with Fairfax County Redevelopment and Housing Authority financing. However, many owners of small, market-affordable properties without publicly-backed loans or mortgages are at-risk of foreclosure due to lost rental income. Mitigation strategies such as property tax abatement for landlords who agree not to evict tenants for non-payment of rent for the duration of the public health emergency could help these landlords stay afloat.
- ✓ **Use eviction data to guide equitable distribution of resources.** ZIP code-level data on eviction filings and judgments can be used to identify neighborhoods with large numbers of housing insecure households. Local governments and human service providers can use data on eviction filings and judgments to prioritize outreach regarding rental assistance and other emergency resources, such as food distribution. NVAHA created the [Northern Virginia Eviction Prevention and Rental Assistance Dashboard](#) to support this type of targeted, neighborhood-level outreach.

What Landlords Need to Know Before Filing an Eviction Suit

1. **You MUST apply for rental assistance on behalf of tenants!** Before filing to evict tenants who were financially impacted by COVID-19 for non-payment of rent, you must provide 14 days' notice, notify tenants about state rental assistance funds and apply for assistance on behalf of tenants who have not applied on their own. If a tenant has applied for assistance, you must cooperate with their application and provide supporting documentation, including a state W-9 form. These requirements will remain in effect through June 30, 2022. Apply for assistance here: <https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Pages/rentrelief.aspx>. **Note:** Because Fairfax County accepted a direct allocation of ERA funds, landlords and tenants in Fairfax County are no longer eligible for RRP funds and need to apply for assistance directly from the County. See page 8 for details.
2. **You MUST offer tenants a repayment plan.** As of November 9, 2020 state law requires landlords who own more than four units (or more than 10% interest in more than four units) to offer tenants a repayment plan *before* filing an eviction suit. This bill also extends the period between issuing a pay-or-quit notice and filing an eviction suit from 5 to 14 days for all landlords (regardless of the number of units they own). The bill will remain in effect through July 1, 2022.

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

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

What Tenants Need to Know

1. **Your landlord CANNOT evict you without following a legal process** (see page 9). Your landlord **MUST give you 14 days' notice** before filing an eviction suit.
2. If you were financially impacted by COVID-19, your landlord **MUST apply for rental assistance on your behalf**, if you have not applied on your own. If you applied for assistance, your landlord **MUST** cooperate with your application and provide **ALL** required documentation. Your landlord may only file to evict you if you are found ineligible for state rental assistance, refuse to apply for assistance, or if you are not approved within 45 days of filing your first application or 14 days of filing an additional application for assistance. If your landlord owns more than 4 units, they must also offer you a repayment plan without late fees.
3. **Rental assistance is available!** The state Rent Relief Program (RRP) will cover 100% of previous and future months' rent for up to 18 months. You can apply for RRP funds directly or ask your landlord to apply on your behalf.
Note: As of Feb. 15, landlords and tenants in Fairfax County are no longer eligible for RRP funds and need to apply for assistance through a separate, County-run program. See page 8 for details.
4. If you are facing an eviction case (“unlawful detainer”) in court and have questions or need legal representation contact Legal Services of Northern Virginia:

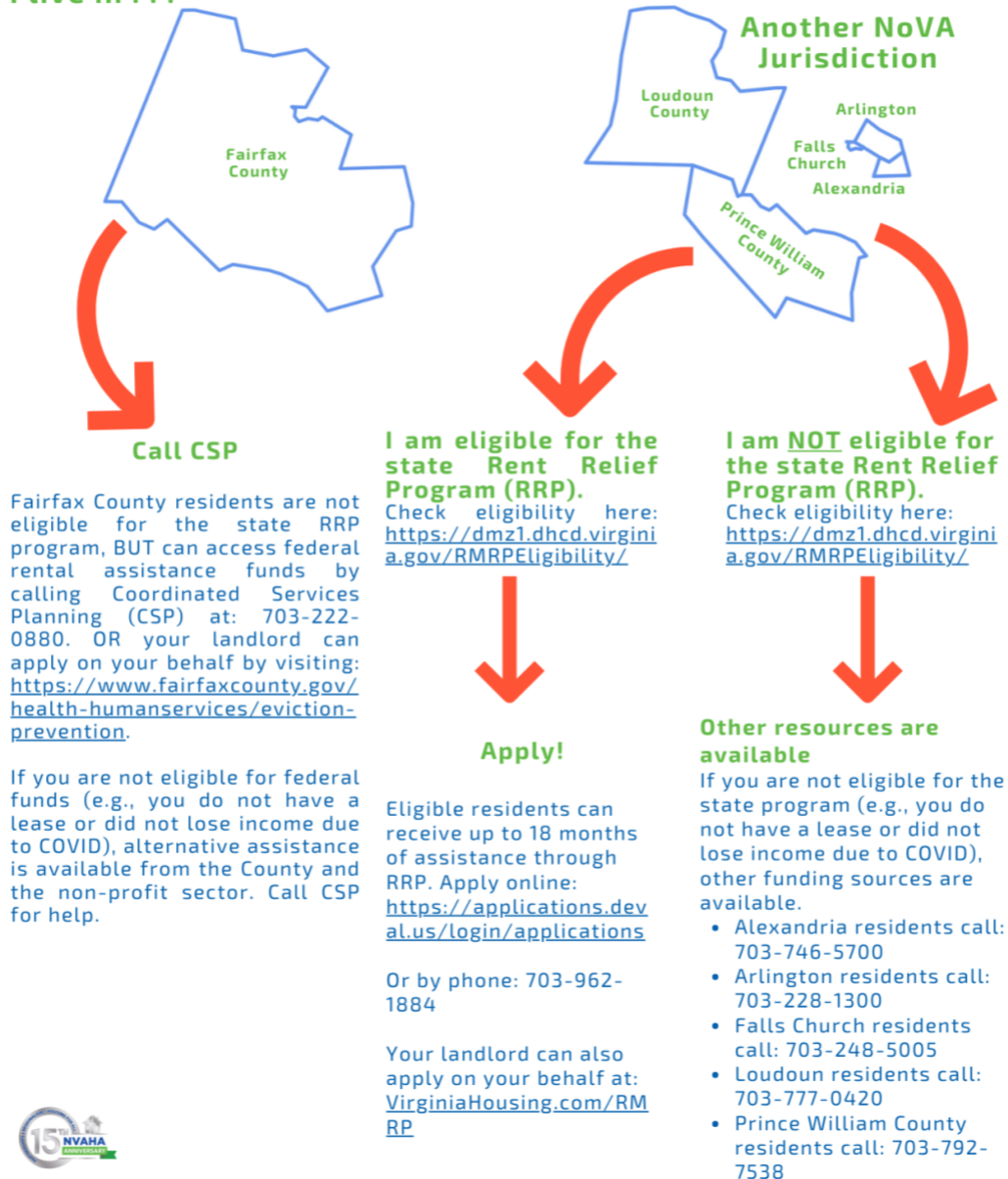
Phone: 703-778-6800 (Mon – Thurs, 9:30am – 12:30pm & 1:30 – 3:30pm)

Website: www.LSNV.org

Where should I go to access rental assistance?

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

I live in . . .



NAVIGATING THE EVICTION PROCESS DURING COVID-19

1 NOTICE



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

2 SUMMONS



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

3 FIRST RETURN



The date listed on the summons is the "first return" date. The first return is your opportunity to dispute the case and request a trial. **If you do not appear in court on this date, there will be a default judgement for the landlord.**

4 TRIAL DATE



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

5 APPEAL PERIOD



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

6 WRIT OF POSSESSION



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

7 EVICTION



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



Health & Wellness Resources

Support for Survivors of Domestic Violence

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

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

Child Abuse & Neglect

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

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

Mental Health Resources

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

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