COVID-19 Eviction Defense Project
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Reducing Eviction Risk in Colorado

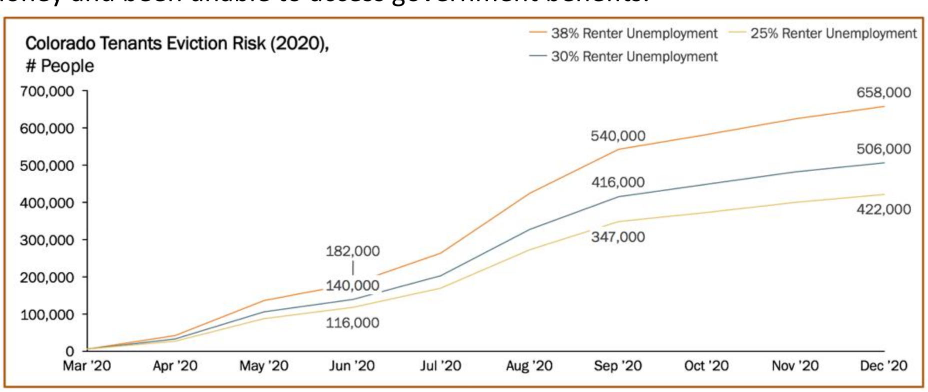
ABSTRACT

Renters in Colorado are facing unprecedented eviction risk as a result of the COVID-19 pandemic. The COVID-19 Eviction Defense Project estimates that nearly 420,000 Coloradans will be at risk of eviction by September 2020, having accumulated nearly $765 million dollars of rent debt if current conditions do not change. Further, many Coloradans are immediately at risk as Governor Polis' eviction moratorium will expire on Saturday May 30th, allowing landlords to initiate the eviction process on Monday. While the COVID-19 economic crisis is ultimately a cash problem for renters that requires federal intervention to solve, the State of Colorado can take specific actions to stave off the worst of the eviction crisis. State legislators should enact policies that help buy tenants time to recover from financial hardship, and provide long term protections against the harm tenants may experience as a result of a COVID-19 induced eviction.

PART I: THREE WAVES OF EVICTION RISK, BALLOONING RENTAL DEBT, AND DEVASTATING IMPACTS

Unemployment in Colorado reached 11.5% in April. It is likely higher among renters, and the number may seriously understate the number of Coloradans who have lost their jobs or experienced reduced incomes. Goldman Sachs now projects 25% nationwide unemployment, and an early Federal Reserve Bank of St. Louis analysis projects that it could reach 30%. For half of renters—those making under $40,000—unemployment may already be at 40%. In the nine weeks since the COVID-19 state of emergency declaration, more than 495,000 Coloradans have filed for unemployment insurance. In the coming months, many of these Colorado renters will run out of money. When renters run out of money, they are at risk of eviction.

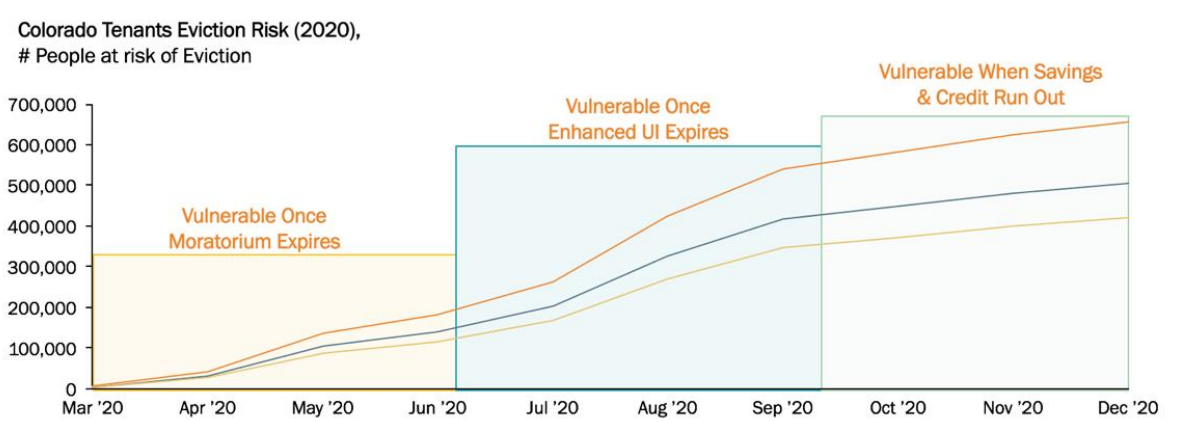
420,000 Coloradans Will Face Eviction Risk and Accumulate Nearly $765 Million in Rent Debt by September 2020 if conditions do not change. By September 2020, we estimated that nearly 420,000 tenants, living in 181,000 households, will face eviction risk across the state. This represents 22% of Colorado's 2,050,000 people living in renter households. Communities of color, undocumented residents, and low income workers will be especially vulnerable to evictions caused by the COVID-19 emergency. By June, 140,000 people in 61,000 households could face eviction risk, having already run out of money and been unable to access government benefits.



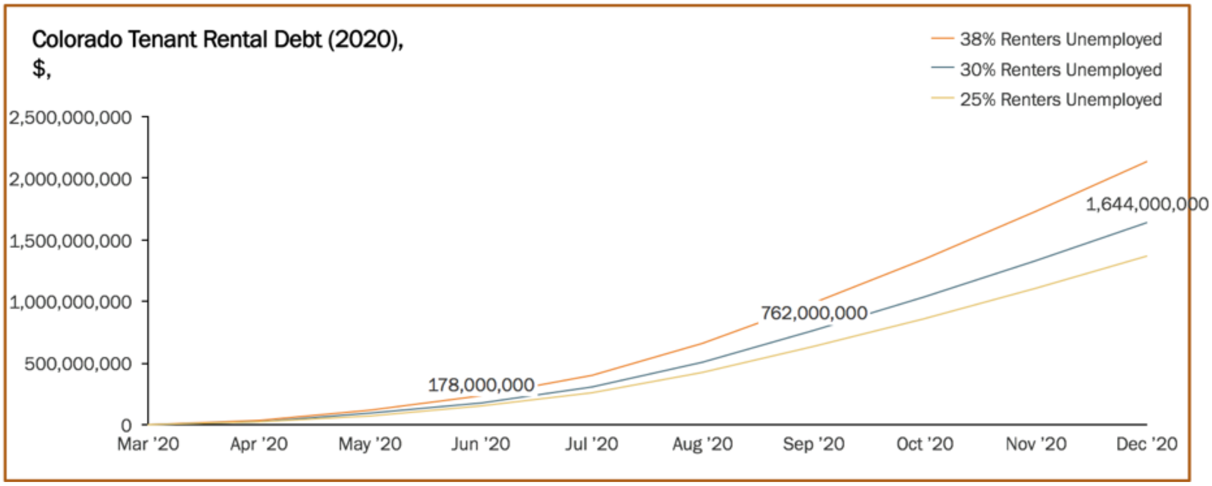
We predict eviction risk will be highest in high cost, high population counties, including: Denver, El Paso, Arapahoe, Jefferson, Adams, and Weld counties. An analysis by the Terner Center for Housing

Innovation at the University of California estimates that in the Denver-Aurora-Lakewood Metropolitan Area there are 162,000 renter households with at least one worker's employment immediately impacted by efforts to flatten the COVID-19 curve, accounting for 39% of renter households. In Colorado Springs, the Terner Center estimates that 31,500 renter households will be impacted by efforts to flatten the curve, accounting for 34% of renter households. In Greeley, the number of households impacted is 12,100, accounting for 41% of renter households. Colorado communities in Summit, Eagle, and Lake County with economies that rely heavily on tourism also risk severe eviction crises on a population basis. According to the Terner Center's analysis, recreation and traveler accommodation industries are among the "at risk" industries.

Specifically, we project that the eviction crisis in Colorado will unfold in three waves between March 2020 and December 2020. The first wave hits people who are vulnerable to illegal evictions right now and immediately vulnerable to legal evictions after moratoria lift. Many people at risk in the first wave have already run out of money and may face eviction as soon as courts open. This group includes many of the most vulnerable—those who cannot access government benefits due to disability, immigration status, or other factors, low-income people, and people of color. It also impacts cost-burdened moderate and middle income renters without sufficient savings, access to credit, or the ability to otherwise borrow, and for whom government benefits are insufficient to cover renter obligations. The second wave hits when enhanced federal unemployment expires for early recipients in July and for every renter by July 31st. This wave impacts the most vulnerable who were able to receive unemployment benefits as well as those who live pay-check to pay-check without savings or access to credit. The third wave will arrive this fall. Ultimately, those with savings, access to credit, the ability to conserve stimulus or UI payments, or other borrowing avenues will gradually become unable to pay their bills.



In addition to eviction risk, the level of rent debt accrued by Colorado tenants if current economic conditions are sustained is substantial. We estimate that in June 2020, Colorado tenant rent debt will exceed $175 million. In September 2020, we estimate rent debt accumulated by Colorado tenants to reach nearly $765 million. By the end of the year, if no recovery occurs, rental debt could exceed 1.6 Billion.



Eviction risk and rent debt figures are based on our household level analysis that considers a 30% unemployment rate among renters, and accounts for family savings as well as the effects of CARES ACT stimulus payments, enhanced federal unemployment, and state unemployment on family budgets. We calculate average rents based on on the percentage of income spent on rent by income tier, and we use Congressional Budget Office projections of the distribution of job losses over time. Five inputs drive our analysis: percentage of people with no access to unemployment insurance; percentage of people who can weather a 3-month cash emergency based on a survey by the Urban Institute; percentage of benefits above pre-surplus income savings; percentage of surplus non-rent income. See appendix A for the methodology.

PART II: HOW EVICTIONS AFFECT FAMILIES:

Consider Kendra Tallant, a Colorado Springs renter who lived with her fiancé and son. Kendra is a client of the COVID-19 Eviction Defense Project who experienced an eviction attempt by her landlord in violation of the CARES Act. In addition to being furloughed from her job as a reservation agent at a resort, Kendra's fiancé lost his job as a car detailer and her son lost his job at a local seafood restaurant, rendering her family incapable of paying $1,761.62 in rent due on April 1st. After attempting to explain her family's job loss to her landlord and their inability to make rent for the month, her landlord served them with a ten-day demand letter and imposed nearly $300 in late fees. With the help of COVID-19 Eviction Defense Project, Kendra discovered that her property was covered by the CARES ACT.

However, for people like Kendra, eviction moratoria only buy time. Without state action, nearly half a million people face risk of eviction and increased risk factors for homelessness, poor health outcomes, and job loss.

Evictions devastate families. An eviction crisis means that homelessness, poverty, starvation, job loss, and diseases of despair happen to families. A 2018 study from the Wagner School of Public Service at New York University about the effects of eviction on low-income households found that evictions cause increased persistent risk of homelessness, increased housing insecurity and instability, and lead to negative health outcomes for those who are evicted, as evidenced by an increase in emergency room use among this population. The Wagner study builds on research by Matthew Desmond in *Evicted* and the sociological papers that underlie his book, finding that eviction is also tied to jobless, prolonged homelessness, food insecurity, lack of schooling for children. Housing related trauma around the great recession has also been linked to higher suicide rates and suicide.

If 420,000 people are at risk, it means that Colorado risks each of these impacts happening 420,000 times.

PART III: CURRENT POLICY CANNOT STEM THE TIDE:

A patchwork of expiring state and federal cash support and eviction protections are insufficient to protect Colorado renters. While these benefits provide temporary lifelines to a majority of Colorado tenants, they begin lapsing as soon as this weekend. Colorado's eviction moratorium issued by Governor Polis in late April expires on June 1st.[i] The CARES Act's eviction moratorium only covers 28% of renters nationwide.[ii] Moreover, enhanced unemployment insurance ends July 31st and, using EITC payments as a guide, CARES Act stimulus checks project to be nearly exhausted by then. For at least 14% of formerly employed Coloradans, unemployment assistance has not been available. The number is likely far greater given those who did not apply, including undocumented Coloradans.

While some low-income filers may currently earn slightly more in unemployment than they did previously, these benefits will be short-lived. After July 31st, unemployment insurance will cover 60% of Coloradan incomes up to a cap of $618 per week. For the 197,000 Colorado families that pay more than 50% of their income on rent, it will likely be impossible to make payments without borrowing or savings if they lose their jobs. For the additional 192,000 families that pay between 30-50% of their incomes on rent, it will be exceedingly difficult to make rent under only state unemployment.

PART IV: POLICY RECOMMENDATIONS TO BUY TENANTS TIME AND LIMIT THE DAMAGE OF COVID-19

In order to address rising eviction risk across the state, three types of policies are needed: cash support, policies that buy time, and policies that limit long-term damage to tenants. Only the federal government has sufficient financial power to provide cash assistance over the course of the crisis. However, there is a lot Colorado can and must do to give tenants the time they need to get back to work or to receive additional federal support through an extension of the CARES Act or other, similar policy.

Short-term policies to Buy Tenants Time

Stop the eviction process: Coloradans need more time.[iii] A statewide eviction moratorium should last a sufficient amount of time to allow renters to recover and pay their bills. Logically, this means that a comprehensive eviction moratorium should extend until the start of the next legislative session to give tenants time to weather the three waves of the eviction crisis and give legislators an opportunity to revisit the need for additional tenant protections when they reconvene. Alternatively, it should extend for 180 days from the date of enactment and give the governor the power to extend the moratorium as necessary. Specifically, a comprehensive moratorium would stop every step of the eviction process. It would prohibit landlords from posting or serving eviction notices to tenants; and limit courts and local law enforcement from initiating or executing any eviction orders for the duration of the moratorium.[iv]

An extension of the eviction moratorium for a prolonged period of time will help tenants financially recover from the COVID-19 emergency and allow landlords and tenants time to negotiate repayment agreements for any missed rent during the moratorium.

Buy Landlords Time with Foreclosure Protection: The COVID-19 economic crisis and eviction moratoriums will reduce expected revenue for landlords. For these landlords, tenant non-payment impacts a landlord's ability to pay their mortgages and property taxes. This is especially true for landlords who own small unit buildings, those occupied by the lowest-income renters and the most at risk. Consequently, a statewide eviction moratorium should mandate that lenders offer a forbearance option to borrowers unable to make mortgage payments due to COVID-19 related hardship, including tenant hardship. These forbearance options should include flexible repayment terms.

Legislatively Establish Repayment Plans that are Prima Facie Reasonable: Once eviction moratoria lift, tenants who miss their rent payment will still be liable for unpaid rent, but few will be able to pay that rent all at once. Legislators should mandate that landlords provide reasonable rent repayment plans. A number of municipalities have already passed policies that forbid balloon payments and allow tenants to stay housed if they can keep up with the terms of the repayment plan.

Extend tenant cure period: Tenants and landlords need more time. Under current laws, tenants have ten days to cure a violation for unpaid rent before the landlord can initiate eviction proceedings. Colorado should permanently extend the cure period to last until a writ of restitution is issued. Extending the cure period will give tenants who receive demands more time to earn money and negotiate with landlords. Moreover, as the existence, timing, and amount of federal benefit extensions remains uncertain, extended cure periods could allow thousands of tenants with checks on the way from the federal government the necessary time to repay.

Long-term Policies to Limit Harm

Suppress court records to prevent the permanent "Scarlet E:" Evictions and eviction filings result in an adverse housing record for tenants. A statewide eviction moratorium should include a provision to suppress court records related to a tenant's eviction and rental debt accrued due to pandemic-related hardship. This policy ensures that tenants do not carry the "Scarlet E" when filling out rental applications, making re-housing easier for previously evicted tenants. This policy recommendation would build on Colorado's recently passed HB-1009: Suppressing Court Records Of Eviction Proceedings, which seals court records of eviction proceedings until a judge issues a final order, to seal all records including those with a final order related to the COVID-19 pandemic.

Boost enforcement and penalties: Eviction law should prevent unlawful evictions and increase penalties for landlords who cut power, threaten their tenants, or otherwise attempt to push tenants out of their homes while eviction moratoria are in place. Inclusion of an enforcement mechanism and penalties for violation should be part of any statewide eviction moratorium and long-term housing security bill. The legislature should explore adding penalties under the criminal code—though without jail time—to allow police to intervene to stop illegal evictions.

Develop rental relief funds: The COVID-19 emergency will have a significant financial impact on tenants across the state and simultaneously diminish state government's ability to financially support Coloradans facing financial hardship. While the state cannot finance all rental debt needs, an innovative housing security bill could include the creation of a Social Impact Bond that would create a source of funding to finance bridge loans for tenants to support rental payments as they return to work. This mechanism would leverage government and philanthropic dollars to provide bridge liquidity to workers awaiting returns to work.

Conclusion

In the absence of legislation to extend and strengthen existing state-wide eviction moratoria, the COVID-19 eviction crisis has the potential to cause substantial harm to tenants across Colorado. With the possibility of 420,000 Coloradans facing eviction risk and accruing nearly $765 million in rent debt, an extended, comprehensive eviction moratorium that buys tenants time and limits their exposure will minimize evictions across the state.

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[i] The Governor's executive order bans filing or initiating actions for eviction based on default; places restrictions on judicial actions to execute evictions; prohibits landlords from charging late fees or penalties related to missed rent payments; and directs landlords to notify tenants of protections under the federal CARES Act. The order is in effect until May 30, 2020. Once the order expires, any renter who was unable to pay rent for any month plus ten days is newly vulnerable to eviction.

[ii] The CARES Act places a moratorium on residential evictions for residential tenants of covered housing programs, which are rental units in properties that: participate in federal assistance programs, are subject to a federally backed mortgage loan, or are subject to a federally backed multifamily mortgage loan.

[iii] Landlords have the right to pursue eviction ten days after providing tenants with a notice to pay or move out. They initiate the eviction process by posting or serving eviction notices. Put simply, this is an insufficient amount of time for tenants to catch up on missed payments or financially recover from the economic impact of the COVID-19 emergency.

[iv] The prohibition on posting or serving demands for payment or possession has a number of benefits. From a public health perspective, it prevents the number of people touching tenant property. From a public safety and tenant health perspective, this policy makes clear to landlords and tenants alike that no one can be forced to move during this time unless they endanger public safety. Before Governor Polis' eviction ban in April, many tenants were receiving demands for payment and possession despite the fact that courts were closed. These demands initiated self-help evictions and massive tenant anxieties.